9-22-81
Vol. 46 No. 183
Pages 46781-46874

federal register

Tuesday
September 22, 1981

Highlights

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

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, and 275

[Amendment No. 188]

Food Stamp Program—Performance Reporting System; Quality Control

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking amends and finalizes emergency final food stamp rules published in the December 9, 1980 Federal Register (45 FR 81030). In this rulemaking the performance reporting system regulations are amended by establishing quality control (QC) procedures for households (cases) processed for certification by the Social Security Administration (SSA) and for cases participating in certain FNS-authorized demonstration projects. Since States do not have complete control over cases processed by the SSA, the Department believes that States should not be held accountable for errors in these cases through QC reviews. Since data from demonstration project cases are not necessarily relevant to the purpose of the QC system (which is to improve long term management of the program), the Department believes that certain of those cases should also be excluded from QC error rate calculations. This rulemaking will exclude the above cases from State error rates and thus ensure that States are not held accountable for errors beyond their control and that States are not discouraged from participating in demonstration projects based on anticipated increases in QC error rates.

EFFECTIVE DATE: These rules are effective on October 21, 1981.

FOR FURTHER INFORMATION CONTACT: Maurice C. Tracy, Chief, Performance Reporting Systems Branch, State Operations Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447–4002. The final impact statement on this rulemaking is available on request from the above individual at the above address.

SUPPLEMENTARY INFORMATION: This rulemaking has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 and Executive Order 12291. This rule will result in a different reporting procedure for a relatively small number of quality control cases but will not increase States' overall reporting burden. It has been determined that the rule will not have (1) an annual economic impact of more than $100 million, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, 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. Therefore, the rule has been classified as a non-major rule.

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Public Law 96–354). G. William Hoagland, the Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The provisions allow for exclusion of certain food stamp cases selected by quality control from States' error rates. Requirements are not placed on small businesses or small organizations. There are requirements placed upon State agencies but these requirements do not have a significant impact on local governments.

Introduction

Final rulemaking published April 22, 1980 (45 FR 27426) established provisions for SSI/food stamp joint application processing as required by section 11(i)(2) of the Food Stamp Act of 1977 (Title XIII, Pub. L. 95–113, 91 Stat. 973). This rulemaking provided for certain SSI/food stamp households to be processed by the SSA. The Department issued emergency final rules on December 9, 1980 (45 FR 81030) regarding the handling of these special SSI cases for quality control (QC) purposes. These rules also covered the QC handling of cases in certain demonstration projects.

Cases processed by SSA or arising under different certification rules in certain demonstration projects are substantially different from other food stamp cases. As discussed in the preamble of the December 9, 1980 emergency final rulemaking, several ways of ensuring that States are not held accountable for errors in these cases were considered. For a complete understanding of the alternatives considered in this rulemaking, it may be necessary to refer to that publication.

The procedure adopted by the Department excluded from State agencies' QC statistics those cases processed by SSA or occurring in selected demonstration projects. Nonetheless, the findings in these cases must be reported separately. As noted earlier, since State agencies do not have complete control of SSA processed cases, neither the correctness nor the incorrectness of those case determinations would necessarily reflect State agency performance. Moreover, it would not be sensible to include demonstration project cases in QC error rate calculations since this would discourage States from participating in these projects based on anticipated increases in their error rates. By segregating these cases while still reviewing them, data on these cases is available for evaluation and policy modification.

The Department invited public comment on the December 9, 1980 emergency final rulemaking. This preamble addresses the comments received during that comment period. Twenty comments from five Regional Offices, fourteen State agencies and one law firm representing four States were submitted to the Department. Following is a discussion of the issues raised by commenters and an explanation of the decisions made in these final rules.

Implementation

The Department established August 1, 1980 as the implementation date of the December 9, 1980 emergency final rulemaking. Implementation was made retroactive to August 1 so that the effective date of that rulemaking would coincide with the implementation of the

April 22, 1980 SSI/food stamp joint application processing rulemaking (45 FR 27426).

Six commenters objected to the August 1, 1980 implementation date. The commenters complained that: 1) States would have difficulty retrospectively sorting out these cases, and that 2) the lack of advance notice would force States to again review cases that had already been reviewed. Three of these commenters suggested that a more reasonable effective date would be October 1, 1980. They claimed that October 1 was the start of a reporting period so that the chance of skewing the error rates would be minimized and that this later date would limit the State's retabulating burden.

However, the Department does not believe that the possibly increased burdens will be significant. Since the cases being excluded from the QC error rates in this regulation are few in number and specific in nature, the Department does not foresee States having great difficulty identifying them in future reporting periods. Also, § 273.2(k)(1)(i)(B) requires that all SSA processed applications be accompanied by a FNS and SSA-approved transmittal form. Thus, reviewers should be able to identify SSA processed cases by the presence of this form in the household's casefile.

Regarding the August 1, 1980 implementation date, the Department is not requiring that reports already submitted for the April–September 1980 period be retabulated. This would involve sorting through two months of sample cases. Thus, based on the delay in publication and the complaints received about the August date, the Department has decided that implementation of this rulemaking will not be mandatory until October 1, 1980 (the start of the October 1980–March 1981 QC reporting period). However, since the number of cases being excluded from reviews by these regulations is small (for the April–September 1980 period in particular), no significant biasing of results is expected by this delayed implementation in some States (until the start of the October 1980–March 1981 QC reporting period).

Exclusion of cases

Support for the Department's procedure of excluding SSA processed cases and demonstration project cases came from six State agencies and two Regional Offices. Three States agencies and a law firm representing four State agencies opposed the Department's decision to exclude either one or both of the special cases. Reservations were expressed by four other State agencies. While different points were raised by these commenters, their primary concern was that the exclusion of SSI processed cases would inflate State agencies' error rates. It was anticipated that there would be a resultant increase in error rates based on the removal of the SSI cases which would make some States liable for sanctions.

The Department has acknowledged that some State agency error rates might rise as a result of these regulations. However, since the category of cases processed by the SSA did not exist before, the Department has no evidence that indicates that SSA processed cases had lower error rates. It is possible that the error rate for these cases could be higher than cases processed in the regular manner. In either event, that portion of the SSI caseload that is processed by SSA should be very small (in the first quarter of fiscal year 1981, only 15,383 cases were processed by SSA), and, thus, any affect on error rates will be slight. The Department will be carefully studying QC (i.e., the reports filed on these excluded cases) for any indications that this rulemaking has an unwarranted adverse affect on States' error rates.

Some commenters suggested different methods of managing the special SSI and demonstration project cases and/or modifications of the present method of handling these cases. These recommendations included: (1) counting all SSI cases in the error rates regardless of the processor; (2) giving States the option of whether to include all SSI cases in their error rates; (3) recomputing error rates to reflect the exclusion of SSA processed cases; and (4) not reviewing the excluded cases at all. Although the Department has elected not to adopt any of the proposed alternatives, a brief discussion of these comments follows.

One commenter suggested that all SSI cases be included in error rates, regardless of their processor, since all SSI cases were included in the prior review period. This commenter claims the proper way to calculate QC statistics is by including all comparable cases and that the exclusion of SSA processed households would skew error rates. First of all, since the portion of the SSI caseload that is processed through SSA is small, no significant effect on error rates is expected. Secondly, the Department does not believe that excluding SSA cases would result in the deletion of comparable cases from a prior review period since no category of SSA processed cases existed in the prior review period. The Department believes that State agencies should be judged exclusively on those cases over which they have control since that is the best estimate of a State's performance.

Some commenters urged that States be given the option of whether to adopt this procedure. However, that approach would not necessarily give a State agency's true error rate. Moreover, a State could be given credit for the handling of cases over which it did not have control. This proposal would also complicate the QC system by making error rates inconsistent from State to State and from period to period.

Two commenters suggested that a procedure be developed which would somehow recompute a State's error rate to reflect the exclusion of SSA processed cases. As previously mentioned, the Department believes that QC error rates should reflect each State's real performance. Therefore, the Department sees no reason to adopt a procedure which would modify a State's error rate to reflect how it would have performed had it reviewed a larger number of SSI cases.

Two commenters suggested that the special SSA processed and/or demonstration project cases not be reviewed at all. This would decrease State workloads. While the Department is eager to decrease the workload on States, it is now important that these special cases be reviewed. The Department needs this information so that the effect of excluding these cases can be gauged. Reviewing these cases may also give the Department valuable information for policy modification and evaluation. If for certain demonstration projects the information obtained through reviewing these cases is determined to have marginal utility, these cases may be excluded from the review entirely. This option has been clarified in §§ 275.12(c) and 275.13(c) of the regulations.

Definitions

Concern was expressed by one commenter because the phrase "significantly different certification rules" was not defined. This commenter felt that in order to prevent any arbitrary identification of demonstration projects as exempt or non-exempt, an elaboration of this phrase was needed. The Department has chosen not to presently define this phrase because all future changes in certification rules for demonstration projects cannot be anticipated. Moreover, the reason(s) for the exclusion of each demonstration project from QC error rates will be specified in the rules establishing those demonstration projects.

Other Comments

One commenter pointed out that the word "excluded" should be inserted in the last sentence of the description of cumulative allotment error rates in § 275.12(b)(1)(vii). The Department has made this correction of an inadvertent deletion. This sentence should read ". . . certain types of cases that have been excluded from State agencies' error rate calculations, shall be *excluded* from the active case error rate. . . ."

Other commenters suggested that the FNS–245 data sheet be updated, that the QC handbooks be revised, that the automated QC system be capable of identifying and excluding these cases, and that any changes in the review procedures for demonstration cases be identified early. The Department has already taken action in these areas. The FNS–245 data sheet has been revised, as have the critical areas of the pertinent QC handbook. The automated QC system will be able to identify and exclude these special cases. Finally, the Department will issue any changes in review procedures as early as possible.

Since SSA processed and demonstration project cases will not be in the QC error rate (and since Federal reviews will not include them), one commenter wanted to know what effect their exclusion will have on the size of the regression analysis. This commenter was concerned about the impact of excluding these cases on the Federal rereview process. While omitting these cases may lower the sample size from which the number of cases to be rereviewed is computed, this is not expected to have a significant effect on review results. Thus, the procedures for the rereview process will not require modification.

Another point concerned the format States should use in reporting on these cases. These final regulations have been clarified to require development of an additional FNS–247–1 report for SSA processed or applicable demonstration cases, when the State's sample includes more than five of either type of case. If a State's sample includes less than five of either case, the State may simply submit the data sheet of the Form FNS–245 with the required FNS–247 report. Finally, the Department intended States to exclude from their error rates those food stamp cases processed by the SSA at recertification. Because this apparently was not clear to two commenters, it has been specified in the regulations.

Conclusion

The implementation date of these regulations has been modified for reasons explained in the preamble. While States may still implement at the August 1, 1980 date, implementation is not mandatory until October 1, 1980. Sections 275.12(c) and 275.13(c) have been clarified to indicate that FNS has the option of excluding from review those demonstration project cases with significantly different issuance or certification rules, if it is determined that information obtained from these cases would not be useful. The final regulations also specify that households whose participation is based upon recertification by SSA (as allowed in § 273.2(k)(2)(ii)) are also excluded from States' QC error rates. In addition, the last sentence of § 275.12(b)(1)(vii) has been corrected by inserting the word "excluded". Finally, the reporting format for these cases has been specified. Except for these alterations, final regulations remain unchanged from the emergency final regulations. Those cases processed for food stamps by the Social Security Administration and cases participating in selected demonstration projects are excluded from States' QC error rates. This ensures that States are not held accountable for errors beyond their control. State agencies will select samples as they currently do and conduct reviews following standard procedures unless FNS provides modified procedures for a demonstration project. However, in reporting on the results of reviews, the State agencies will separate the results of SSA and demonstration project cases from the sample and report on them separately. This includes both active and negative case samples. To ensure that SSA and demonstration project cases receive proper attention, however, these cases will not be excluded from State QC samples when completion rates (as described in § 275.11(f)) are calculated. Thus, State completion rates will be adversely affected if these cases are not reviewed.

Therefore, 7 CFR Parts 272 and 275 are amended to read as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, Paragraph (g)(24) is revised to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(24) Amendment 186. The procedures of Part 275 regarding SSA/food stamp joint processing and demonstration cases shall become effective on August 1, 1980 for all applicable State agencies. These procedures must be implemented by October 1, 1980.

* * * * *

3. Paragraphs § 275.12(b)(1)(vii) and (c), § 275.13(c), § 275.21(c) are revised to read as follows:

PART 275—PERFORMANCE REPORTING SYSTEM

Subpart C—Quality Control (QC) Reviews

§ 275.12 Review of active cases.

* * * * *

(b) * * *

(1) *Content of the review.* * * *

(vii) *Cumulative allotment error rate.* The cumulative allotment error rate shall include the value of the allotments underissued or overissued, including overissuances in ineligible cases, for those cases included in the active case error rate. As described in § 275.11(g), certain types of cases that have been excluded from State agencies' error rate calculations shall be excluded from the active case error rate identified above and the cumulative allotment error rate.

* * * * *

(c) Households correctly classified for participation under the rules of a demonstration project which establishes new FNS-authorized eligibility criteria or modifies the rules for determining households' eligibility or allotment level shall be reviewed following standard procedures provided that FNS does not modify these procedures to reflect modifications in the treatment of elements of eligibility or basis of issuance in the case of a demonstration project. If FNS determines that information obtained from these cases would not be useful, then they may be excluded from review. Households whose most recent application for participation was processed by the Social Security Administration personnel shall be reviewed following standard procedures. This includes applications for recertification, provided such an application is processed by the SSA as allowed in § 273.2(k)(2)(ii).

§ 275.13 Review of negative cases.

* * * * *

(c) Households whose application has been denied or whose participation has been terminated under the rules of an FNS-authorized demonstration project shall be reviewed following standard procedures unless FNS provides modified procedures to reflect the rules of the demonstration project. If FNS determines that information obtained from these cases would not be useful, then these cases may be excluded from

review. Households whose application has been processed by SSA personnel and are subsequently denied participation shall be reviewed following standard procedures.

* * * * *

§ 275.21 Quality control review reports.

* * * * *

(c) In addition to the Form FNS–247 series described in paragraph (b) of this section, States shall submit information on the results of reviews of demonstration project cases and cases processed by SSA personnel (i.e., those identified as described in § 275.11(g)). If more than five SSA processed or demonstration project cases are selected in a State's sample, the State shall develop and submit additional Form FNS–247 series reports for these cases. If five or less such cases are selected, the State may submit the data sheet for the cases selected with its required Form FNS–247 series reports.

(91 Stat. 958 (7 U.S.C. 2011–2027))

It has been determined that this regulation imposes no new reporting and recordkeeping burdens over those currently approved by OMB.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: September 11, 1981.

Darrel E. Gray,

Acting Administrator.

[FR Doc. 81–27513 Filed 9–21–81; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Regulation 680, Amdt. 2]

Valencia Oranges Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona Valencia oranges that may be shipped to the fresh market during the period September 11–17, 1981. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the Valencia orange industry.

EFFECTIVE DATE: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This amendment is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81. The marketing policy was recommended by the committee following discussion at a public meeting on January 27, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again on September 16, 1981, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports inadequate allotment to meet current demand for Valencia oranges.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. This amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

Information collection requirements (reporting or recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

Section 908.980 Valencia Orange Regulation 680 (46 FR 46111; Sept. 17, 1981), is hereby amended to read:

§ 908.980 Valencia Orange Regulation 680.

* * * * *

(a) District 1: 700,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons.

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

Dated: September 17, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–27562 Filed 9–21–81; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Certain Animals; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inpection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations concerning the issuance of special authorization to be drawn on a lottery basis for the allotment of quarantine space for animals to be imported through the Harry S Truman Animal Import Center (HSTAIC). This action is being taken to provide an alternative use of the HSTAIC when the total number of animals for which special authorizations are granted for use of the HSTAIC is less than 50. This action provides individuals with the opportunity to apply for exclusive use of the HSTAIC on a first-come, first-served basis. The intended effect of this action is to provide an additional means by which the HSTAIC may be efficiently used.

DATES: Effective date September 22, 1981. Comments must be received on or before November 23, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, Hyattsville, MD 20782, 301–436–8170.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA APHIS, VS, Room 821, Federal Building, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION: This interim action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has

determined that this rule will result in no significant effect on the economy; will result in no increase in costs of prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will have no adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. The emergency nature of this action makes it impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this emergency interim rule.

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action provides a method by which a single entity may have exclusive use of the HSTAIC for the quarantine of 50 or more cattle, when, under the present regulations the facility would otherwise have remained unused. Although any entity which wishes to import animals may apply for exclusive use of the HSTAIC, there will only be an economic impact on one entity for each quarantine period. Further, this action imposes no new additional requrements or costs on small entities.

Dr. Milton J. Tillery, Director, National Program Planning Staffs, has determined that an emergency situation exists which warrants publication without prior opportunity for public comment on this action. Under the present regulations, if the total number of animals for which special authorization is requested is less than 50, there will not be a lottery or importation and the HSTAIC will remain unused. A lottery was scheduled for January 1981; however, no requests for special authorization were received and the HSTAIC remained unused. This emergency action is necessary to provide an additional means by which the HSTAIC could be used in the event that the lottery scheduled on September 22, 1981, is not held due to a failure to obtain the requisite number of requests for special authorization. The Department has not received any requests for special authorization to be issued in the lottery scheduled for September 22, 1981. However, importers have indicated a desire to enter into arrangements with the Department to utilize the HSTAIC by placing immediately only their animals in the facility. It appears that unless the regulations are amended immediately to permit such importations, that the HSTAIC will again remain unused for an indefinite period of time.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency action effective less than 30 days after publication of this document in the **Federal Register**.

Comments have been solicited for 60 days after publication of this document, and this emergency action will be scheduled for review so that a final document discussing the comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Presently, the regulations regarding the importation of animals through the HSTAIC, Title 9, Code of Federal Regulations, section 92.41, provide that if the total number of animals for which special authorizations are requested is not at least 50, there shall not be a lottery or importation and the deposits shall be refunded to the applicants. Under these circumstances the HSTAIC is not used. The Department has had inquiries from importers who wish to import between 50 and 400 animals, but only if they can do so without placing their animals in the HSTAIC with animals owned by other applicants.

The purpose of the HSTAIC is to provide a means to import certain animals in to the United States that would not otherwise be eligible for importation and thereby broaden the genetic base of such animals in the United States. To accomplish this purpose, the Department needs to put the HSTAIC to the maximum use possible. This emergency action would provide that if a lottery is not to be held pursuant to the regulations, the HSTAIC may be used by persons who apply for exclusive use of the HSTAIC for between 50 and 400 animals on a first-come, first-served basis.

Therefore, this document amends the heading of present § 92.41(a) to read: "Procedures for special authorization issued on a lottery basis." This amendment is necessary to distinguish the procedures presently set forth in the regulations for the selection of applicants by lottery from the procedures added by this document and discussed below.

Presently, the proviso in § 92.41(a)(2) states that if the total number of animals for which special authorizations are requested is not at least 50, there shall not be a lottery or importation and the deposits shall be refunded to the applicants. This document amends that proviso to indicate that if the total number of animals for which special authorizations are requested is not at least 50, there shall not be a lottery or importation pursuant to § 92.41(a). However, special authorization for exclusive use of HSTAIC may be issued in accordance with the procedures set forth in a new § 92.41(b).

As stated above, the present lottery procedures remain in § 92.41(a). Present § 92.41 (b), (c), and (d), and the references thereto are redesignated § 92.41 (c), (d), (e). The alternative procedure discussed below is added in a new paragraph (b).

As stated above, this document provides a new § 92.41(b) which sets forth procedures for the issuance of special authorization for exclusive use of the HSTAIC for between 50 and 400 animals. As with the issuance of special authorizations on a lottery basis, the Department does not believe that HSTAIC can be operated economically with fewer than 50 animals in the facility. Special authorization for exclusive use of the HSTAIC for between 50 and 400 animals may be issued when the HSTAIC is not scheduled for use for an importation of animals pursuant to § 92.41(a). The Department has placed this limitation on exclusive use so that issuance of special authorization on a lottery basis will take precedence over exclusive use of the HSTAIC. The Department believes that preference should be given to issuance of special authorization on a lottery basis to prevent a few individuals who want exclusive use of the HSTAIC from monopolizing the facility to the detriment of numerous potential applicants who collectively may want to import between 50 and 400 animals at one time.

New § 92.41(b)(1) requires that each applicant requesting special authorization for exclusive use of the HSTAIC for between 50 and 400 animals must complete an application for importing animals through the HSTAIC. The application is the same one presently in use for applicants requesting special authorization issued on a lottery basis. The only additional requirement is that such applications indicate that the applicant is applying for exclusive use of the HSTAIC. This is necessary so that the Department can determine whether or not the applicant is requesting exclusive use of the HSTAIC. New § 92.41(b)(1) also provides that each application shall be valid only for the fiscal year (October 1–September 30) in which the application

is received by the Import-Export Animals and Products Staff of APHIS. Therefore, an applicant who applies in a given fiscal year must reapply if he wants his application considered in a subsequent fiscal year. If such a time limit were not imposed, the Department believes that an extensive list of such applicants could develop, and because of changing conditions, many of the applicants would no longer be interested in importing animals through the HSTAIC. Nonetheless, the Department would have to spend time and money contacting these applicants to determine whether they were still interested in obtaining exclusive use of the HSTAIC. Furthermore, it is believed that an annual application system may encourage more importers to utilize the HSTAIC.

New § 92.41(b)(2) provides for the selection of applicants requesting special authorization for exclusive use of the HSTAIC for between 50 and 400 animals. Specifically, the applicant submitting the first completed application received by the Import-Export Animals and Products Staff shall be contacted by the Department and offered the opportunity to receive special authorization. If the applicant submitting the first application should decline acceptance of the special authorization or becomes ineligible, the applicant whose application was received second by the Import-Export Animals and Products Staff would be offered the opportunity to receive the special authorization. This procedure would be contined as long as there are applications to be considered or until an applicant accepts the offer of special authorization. The Department believes this method of selecting applicants for exclusive use of the HSTAIC is fair to the applicant and is not burdensome to the Department. Further, this method of selecting applicants on a first-come, first-served basis is presently being used at other Department import stations.

To prevent individuals from monopolizing the HSTAIC at the expense of other applicants who want exclusive use, new § 92.41(b)(2) provides that during a fiscal year (October 1–September 30) no applicant shall be offered special authorization more than one time unless there are no other applications from other applicants for special authorization for exclusive use of the HSTAIC for the Department to consider.

New § 92.41(b)(3)(i) provides that the applicant who first accepts the offer of special authorization for exclusive use of the HSTAIC shall be sent a cooperative agreement by certified-mail return receipt requested. The applicant shall execute and return to Import-Export Animals and Products Staff a cooperative agreement within 14 calendar days after receipt of the cooperative agreement and pay the required fee or deposit the required payment bond or letter of credit in accordance with the provisions of the cooperative agreement. A similar requirement is imposed upon applicants receiving special authorization pursuant to the lottery. However, under the lottery, the applicants or their designated legal agents or representatives must sign the agreement on the day of the drawing. This is because the applicant or his designated legal agent or representative is required to appear in person at the drawing and would be available to execute the cooperative agreement and pay the required fees. The Department believes that requiring the cooperative agreement to be executed and returned and the required fees to be paid, or the required bond or letter of credit to be deposited, within 14 calendar days after receipt of the cooperative agreement, provides the applicant with adequate time to take such action and gives the Department prompt assurance that the applicant will use the HSTAIC.

Further, new § 92.41(b)(3)(i), prohibits, as do the present lottery procedures, the assignment or transfer of authorization to qualify animals into the United States through the HSTAIC.

New § 92.41(b)(3)(ii) provides, as do the present lottery procedures, that in the event that applications are received for the importation of animals which originate from areas in which conditions are considered unacceptable as specified in § 92.4(a)(3), the applicant will be so notified.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMALS AND POULTRY PRODUCTS: INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations is amended in the following respects:

1. The heading for paragraph (a) of § 92.41 is amended to read:

§ 92.41 Requirements for the importation of animals into the United States through the Harry S. Truman Animal Import Center.

(a) *Procedures for special authorization issued on a lottery basis.* * * *

* * * * *

2. In the last sentence of § 92.41(a)(2) the proviso after the colon is amended to read:

(a) * * *

(2) * * *

Provided, That if the total number of animals for which special authorizations are requested is not at least 50, there shall not be a lottery or importation pursuant to this paragraph, the deposits of applicants requesting special authorization pursuant to this paragraph shall be refunded and special authorization may be issued in accordance with the procedures set forth in paragraph (b) of this section.

* * * * *

3. In § 92.41(a)(4), the reference to "§ 92.41(c)" is amended to read "paragraph (d) of this section."

4. In § 92.41, the reference to "paragraph (c)" in paragraph (b) is amended to read "paragraph (d)" and paragraphs (b), (c), and (d), are redesignated (c), (d), and (e), respectively.

5. In § 92.41, a new paragraph (b) is added to read:

* * * * *

(b) *Procedures for special authorization for exclusive use of the HSTAIC.* Special authorization for exclusive use of the HSTAIC for between 50 and 400 animals shall be issued in accordance with the following procedures when it is not scheduled for use for an importation of animals pursuant to § 92.41(a).

(1) *The application.* Each applicant for special authorization for exclusive use of the HSTAIC shall complete an application [14] for importing animals through the HSTAIC. The applicant shall also indicate on the application that the applicant is requesting special authorization for exclusive use of the HSTAIC. The completed application shall then be sent to the Import-Export Animals and Products.[14] Each application shall be valid only for the fiscal year (October 1–September 30) in which it is received by the Import-Export Animals and Products Staff.

(2) *Selection for special authorization for exclusive use of the HSTAIC.* Special authorization for exclusive use of the HSTAIC for between 50 and 400 animals shall be offered by the Department to the applicant whose valid completed application was first received by the Import-Export Animals and Products Staff.

If the applicant declines this offer, or becomes ineligible, special authorization for exclusive use of the HSTAIC for between 50 and 400 animals shall be offered by the Department to the

applicant whose valid completed application was the second one received by the Import-Export Animals and Products Staff. The Department shall continue this procedure as long as there are applications to be considered or until an applicant accepts the offer of special authorization. *Provided that,* during a fiscal year (October 1–September 30) no applicant shall be offered special authorization more than one time, unless there are no other applications from other applicants for special authorization for exclusive use of HSTAIC for the Department to consider.

(3) *Requirements for special authorization.*

(i) The applicant who accepts the offer of special authorization for exclusive use of the HSTAIC shall be sent a cooperative agreement, as provided in § 92.41(d), by certified mail, return receipt requested. The applicant shall execute and return to the Import-Export Animals and Product Staff [14] the cooperative agreement within 14 calendar days of the applicant's receipt of the cooperative agreement and pay the required fee, or deposit the required payment bond or letter of credit, in accordance with the provisions of the cooperative agreement. Failure to return a completed cooperative agreement to the Import-Export Animals and Products Staff and pay the required fee, or deposit the required payment bond or letter of credit, within 14 calendar days of receipt of the cooperative agreement shall constitute a declination of the offer of special authorization. Authorization to qualify animals into the United States through the HSTAIC shall not be assigned or transferred, nor shall any interest therein be assigned or transferred.

(ii) In the event that any application is received for the importation of animals which originate in areas in which conditions are considered to be unacceptable as specified in § 92.4(a)(3), the applicant will be so notified in writing.

(Sec. 2, 32 Stat. 792, as amended, sec. 1, 84 Stat. 202; 21 U.S.C. 111 and 135; 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this rule will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 17th day of September 1981.

Paul Becton,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 81-27507 Filed 9-17-81; 12:35 pm]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Docket 39836; Regulation ER-1246, Amdt. No. 58]

Tariff Flexibility

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is permitting airlines to use a tariff flexibility system for domestic air fares for the period until January 1, 1983, when airlines will no longer be required to file tariffs for domestic transportation. The system is designed to allow airlines and travel agents to prepare for the transition at their own pace.

DATES: Adopted: September 15, 1981. Effective: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: George S. Baranko or Barry L. Molar, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-6011 or 202-673-5205, respectively.

SUPPLEMENTARY INFORMATION:

The Proposed Rule

EDR-429, 46 FR 38642, July 28, 1981, proposed an exemption from section 403 of the Federal Aviation Act that would permit, but not compel, airlines to deviate from the prices filed in their tariffs for domestic passenger service. Order 81-7-108, July 21, 1981, which was issued along with and incorporated in EDR-429, discussed in detail the background and reasons for the proposed rule. The proposal was intended to allow an orderly transition period until January 1, 1983, at which time the Airline Deregulation Act provides for the expiration of section 403 with respect to domestic air transportation. This rulemaking is an outgrowth of two separate Board proceedings, the *Investigation into the Competitive Marketing of Air Transportation* (Docket 36595) and a rulemaking on "maximum tariffs" (Docket 38746; EDR-408; 45 FR 64864; September 30, 1980).

Under the proposed amendment of the Board's tariff rule, 14 CFR Part 221, an air carrier would be required to file with the Board a tariff stating an unrestricted coach fare for each pair of U.S. points that it served. The filing in tariffs of other fare categories, such as first class, night coach, or supersaver, would be permissive. Carriers could thus continue to file all their fare categories, as they do today, file a few of them, or file only unrestricted coach fares. For each category that it chose to file, the carrier would state a fare and the conditions under which the fare category was available.

If a passenger purchased a fare category that was filed in a tariff, carriers could not charge more than the fare on file, but could charge any amount less than that fare. If the purchased fare category were not on file, then the permissible selling prices would depend on the kind of service. For first class or other premium service that included amenities beyond the carrier's basic unrestricted point-to-point service in that market, there would be no regulatory constraints on the actual selling price. For all other fare categories not filed in a tariff, the actual selling price could not exceed the unrestricted coach fare on file, which would continue to be subject to the Board's fare policies under 14 CFR Part 399, Subpart C. That subpart establishes zones, based on the standard industry fare level (SIFL), within which the Board generally does not suspend fares.

Travel agents would, as a regulatory matter, have the same freedom as carriers to charge fares below filed amounts or, for first class and other premium service, charge fares at any level when no tariff was on file. Carriers that wished to continue today's practice of establishing retail prices to be charged by their agents could file notice of such an arrangement in tariffs, but an agent's failure to observe them would not be considered a violation of the Federal Aviation Act or the Board's rules. A carrier could, however, insure a travel agent's adherence to its pricing policy through contractual means. The amendment of Part 221 would not, however, constitute Board approval of such contracts under section 412 or a grant of antitrust immunity under section 414.

In markets where the unrestricted coach fare on file was also used for the construction of joint fares, no additional tariff filings would be required. In markets where a different fare was to be used for construction, that amount would also have to be filed in a tariff. The current practice in some markets of filing two coach fares, one for local traffic and one for construction of joint fares, could thus continue. In any event the constructed joint fare, unlike single-carrier fares, would be binding as it is

today on both carriers and agents, unless the carriers agreed to a lower joint fare. Carriers that agreed to a lower joint domestic fare could file or not file it in a tariff, at their option. Such an agreed-upon joint fare would, as a regulatory matter, be only a ceiling, and carriers and agents would be free to charge a lower amount without violating section 403 or the Board's rules. As discussed above, however, carriers could specify by contract with their agents that such joint fares must be charged exactly.

The Board also invited comments on an alternative approach. Carriers would be required to file tariffs describing all their generally available fare categories instead of merely unrestricted coach fares and, where different, the fare for construction purposes. In all other respects this alternative was the same as the first proposal so that, for example, carriers would still be free to charge amounts below their filed fares.

The Comments

Comments were filed by American Airlines, Inc., American Express Company, the American Society of Travel Agents (ASTA), the Association of Retail Travel Agents, Ltd. (ARTA), the Aviation Consumer Action Project (ACAP), British Airways, the Bureau of Domestic Aviation (BDA), the Carnation Company, the Commuter Airline Association of America (CAAA), Delta Air Lines, Inc., the Department of Justice (DOJ), Farmland Industries, Inc., Foremost-McKesson, Inc., General Mills, Inc., the International Air Transport Association (IATA), Kimberly-Clark Corporation, Libbey-Owens-Ford Company, the National Industrial Traffic League (NITL), the National Passenger Traffic Association, Inc. (NPTA), Pan American World Airways, Inc., Republic Airlines, Inc., Southwest Airlines Company, Trans World Airlines, Inc., and U S Air, Inc. Generally, the nonairline corporate comments and those of ACAP, BDA, DOJ, NITL and NPTA supported the proposed rule. They all indicated their preference for reliance on free market forces, rather than regulatory solutions, to govern pricing practices in the airline industry and suggested that the proposed rule would remove existing regulatory constraints on pricing. The other commenters either objected to the proposed rule or sought clarification of its effect. Objections fall into three general categories. First, there are arguments that the proposed rule is not in the public interest, because it will do more harm than good to the air transportation system, especially now when the air transportation system is disrupted by the air traffic controllers' strike against the government. Second, there are arguments that the issue of relaxing the filing requirement of section 403 of the Federal Aviation Act is a decision that should and must be left to Congress. Finally, there are arguments that the proposed rule is inconsistent with this country's obligations to the international air transportation system.

The Final Rule

For the reasons set out in EDR-429 and Order 81-7-108, as supported by ACAP, BDA, DOJ, NITL, NPTA, and the nonairline corporate commenters, we have decided to adopt the tariff flexibility scheme as proposed. The objections of the other commenters and our responses are set out below. Also discussed below are some clarifying details and our reasons for not selecting the proposed alternative scheme.

Public Interest Arguments

a. The need for and the timing of the transition.

Many of the arguments raised against the tariff flexibility rule are premised on the notion that there is no need for a transitional pricing policy. For example, ASTA, Pan Am and TWA argue that the present system of filed tariffs affords air carriers all the pricing flexibility they desire. ASTA also argues, and Republic and USAir agree, that the present system does not inhibit competition by signaling price changes to competitors and is, in fact, extremely competitive.

In comparison to the pricing system that existed in the airline industry as recently as two years ago, the present system is competitive and appears to be serving the public well. What opponents fail to recognize, however, is that significant opportunities may remain for price innovation in the air transportation industry and we can best serve the public by not stifling that innovation, even though we cannot predict the particular changes that may occur. Taken together, advance notice of price changes and practices, constraints on rapid price changes, and the administrative cost of numerous tariff filings do constitute a significant impediment to innovation. Since no compelling case has been made that eliminating the current restrictions will cause undue harm to the industry and since it may substantially benefit consumers, we believe that it is in the public interest to remove now the features of the tariff filing system that inhibit airline price competition. Carriers will, however, remain free to use the tariff system to the extent they individually perceive benefits in the system.

American Express, American Airlines, ARTA, ASTA, and IATA all contend that a transition pricing policy is undesirable at this time because of the disruption of the airline industry that has been caused by the Professional Air Traffic Controller Organization's strike against the government. ASTA argues that the strike has disrupted service and limited the availability of air transportation. This argument fails to advance any logical reasons why our proposed policy favoring increased pricing flexibility should be delayed. To the extent that competition has diminished as a result of the capacity constraints, there is an extra reason to eliminate other barriers to competition. Rather than injuring the public, immediate action on the tariff flexibility rule will provide the public with the benefits that come with the possibility of increased competition.

We also reject arguments that there is not enough time remaining before the proposed implementation date of October 1st for the airline industry to make the transition to the new regime. CAAA requests that we delay our decision for 120 days to allow carriers to make decisions on price policy and to implement contractual arrangements. Delta requests it be delayed for at least six months, TWA for a year. American asserts that it will be doing all it can to make the change to the tariffless environment on January 1, 1983. The different perceptions of the time needed to devise individual carrier pricing strategies suggest the very reason why the rule should not be delayed. Carriers' abilities and desires to adjust to the new environment will differ dramatically. Yet the proposed rule does not require carriers to take any significant action by October 1st. Our decision does not materially affect travel agents' obligations to their air carrier principals. If a carrier decides to require agents to charge exact prices after October 1st, its decision will merely continue travel agents' current obligations in the air carrier/travel agent relationship. As a result, we believe that a carrier need only communicate its decision to the travel agent and that the travel agent would then be bound by those instructions because agents are obligated to abide by the reasonable instructions of their principals. Over the long term, however, pricing flexibility should be a matter of negotiation. On the other hand, carriers wishing to engage in innovative pricing proposals—such as Texas International's recent specific fare for members of the Airline Passenger Association—will be free to implement their proposals without

Board interference at their own pace and not that of some other carrier.

While we are making this rule effective shortly after its adoption, we note that carriers have had more than the asserted five weeks in which to develop contingency plans on how they might react to the pricing initiatives of other carriers. The possibility of a transitional pricing policy was first placed at issue in the *Marketing* case two years ago and we established an expedited schedule for these pricing issues ten months ago in Order 80–12–92. Moreover, during our consideration of this rule we gave parties the earliest possible notice of its probable effective date.

b. Disruption of the existing transportation system.

Several parties claim that the proposed rule will seriously disrupt the existing air transportation marketing system. They believe that there will be major changes in the way air transportation is marketed because, under the proposed rule, travel agent pricing practices would be governed by contractual arrangements with air carriers and not Board-enforced tariffs. ARTA suggests air carriers will be reluctant to communicate price information to travel agents and other air carriers for fear of antitrust prosecution under the Sherman Act for price signaling. TWA believes the elimination of mandatory tariff filings will necessitate a major transformation in existing computer systems and investment in new systems. In its view, the industry does not have, at this time, an adequate alternate method of disseminating price information. At a minimum opponents believe the proposed rule will cause instability in the industry and make it more difficult to do business.

We believe that these fears are unwarranted. As we pointed out in Order 81–7–108 at 7–8, our policy is a purely permissive one, affording air carriers the discretion to change their pricing practices at their own pace. While enforcement of air carrier pricing decisions will become a matter of contract, an individual air carrier will be free to continue to file exact tariffs and to use the tariff system to disseminate price information to travel agents, other air carriers and the public, if the carrier concludes tariffs serve that function. However, individual carriers will also be free to conclude that price information may best be disseminated by other means, for example, by direct dealings with the Airline Tariff Publishing Company. Carriers' economic self-interest dictates that adequate, accurate price information be distributed to the public.

Antitrust concerns that have been raised appear to be overstated. We have already concluded that the agency exception to the general proscription on the setting of retail sales prices will apply to the airline industry, a position strongly urged by a number of parties to this proceeding, including the Justice Department. However, ARTA appears to suggest that the mere exchange of information on prices for current and future effectiveness would result in a violation of antitrust laws. Under established law, the exchange of price information is not a violation. Rather, a violation occurs when there is an exchange of information among competitors whose purpose or likely effect is to fix or stabilize prices. *United States* v. *Container Corporation of America*, 393 U.S. 333 (1969). Under certain circumstances, courts will infer the existence of an express or tacit agreement to fix prices through the exchange of information. The present binding tariff system provides this type of mutual assurance about pricing intentions by operation of law and it is our intention to remove this potential impediment to independent pricing decisions. However, the absence of binding tariffs need not mean that advance publication of price information must cease. While courts have, on occasion, inferred tacit collusion from advance circulation of price information, they analyze the structure and functioning of the industry before finding that a conspiracy exists. Advance publication of fare information can serve a legitimate business purpose since the present integrated air transportation system is characterized by common agents and substantial interlining which require widespread dissemination of prices. A price fixing agreement will not be inferred from the mere advance publication of fares. Instead, courts would analyze the method of the price exchange to determine whether it evidences an agreement to fix prices.

Carriers currently submit price information to centralized publishing sources such as ATPCO and the Official Airline Guide, which compile and publish this information for use by travel agents and passengers, as well as other air carriers. This communication of independently set prices for widespread distribution can therefore be distinguished from the secret exchange of advance price information among direct competitors with which the courts are most often concerned. In case of direct submissions of price lists to carriers' computer reservations systems, such as Sabre, the potential for antitrust liability may simply be avoided by isolating that segment of a carrier's operations from its marketing department.

Courts have also analyzed industry structure before inferring that the exchange of prices is designed to fix prices. In an industry which is not structurally competitive and which faces inelastic demand, exchange of price information may have a tendency to stabilize prices. However, the airline industry does not possess these characteristics. Therefore, an antitrust plaintiff would have to overcome a presumption that this industry is structurally competitive and that carriers are pursuing independent pricing policies to increase their market share. Finally, to the extent minor modifications may be required to avoid antitrust liability, these questions will have to be faced in 1983. Our proposal allows carriers to begin that process, while tariffs are still available to carriers that feel a need for the antitrust protection they perceive that tariffs afford them.

ASTA and IATA also argue that the tariff flexibility rule will disrupt the air transportation system. However, they suggest that it is the combined effect of the tariff flexibility rule and the proposed elimination of rules tariffs (EDR–404B; 46 FR 35936; July 13, 1981) that will disrupt the air transportation system. In their view the elimination of specific prices, in conjunction with the elimination of standardized rules governing air carriage, will make each contract between an air carrier and a consumer subject to the contract, common carrier and consumer laws of each state. They envision the generation of tremendous amounts of paperwork, substantially burdening travel agents and outmoding automated equipment. They go on to suggest that travel agents and air carriers alike will be reluctant to ticket many carriers because of the possibility of misrepresenting their rules of carriage and that such incidents of the air transportation marketing systems as ticket standardization, refundability and exchangeability will be lost as air carriers recognize the uncertainties involved in accepting other air carriers' tickets. They conclude that interlining will be curtailed because of that uncertainty and the sheer cost of negotiating many individual contracts. The single contract with specific assurances and legal consequences now available throughout the world will not be available to travelers within the United States.

We have not yet made a final decision on the proposal in EDR–404B to eliminate rules tariffs. We will fully consider the combined effect of the new tariff flexibility scheme and the elimination of rules tariffs before taking any final action in that rulemaking. Meanwhile, the scheme adopted today merely provides interested air carriers increased pricing flexibility. That freedom, especially in view of our decision to require carriers to continue to file coach fares for mandatory joint fare construction purposes, is not likely to result in significant cutbacks in interlining, ticket refund or exchange privileges.

ASTA and IATA also fail to recognize that the decision to eliminate tariffs—all tariffs—in domestic air transportation has already been made by Congress. Consequently, ASTA's and IATA's arguments, which are directed toward continuing tariffs indefinitely, indicate fundamental disagreement with the conclusion that the airline industry is functionally competitive and need not be regulated. They would have us continue regulatory constraints on air carriers because they do not trust the free marketplace to provide the public with interlining opportunities and ticket privileges to the extent the public demands them. We do not agree with these arguments. The philosophy underlying deregulation is that competitive forces, unfettered by government regulation, will insure that air carriers provide the quality and level of service that the public demands. We remain convinced of the desirability of this approach which serves as our guide in formulation of transitional policies absent a convincing showing of market failure.

USAir asserts that there is an inconsistency between the first alternative of EDR–429 and EDR–404B in that the latter appears to require the filing of construction rules and eligibility conditions for fares which themselves are not required to be filed. The reason for this apparent inconsistency is that EDR–404B reflected tariff filing requirements as they existed when it was issued, not rules that had not yet been proposed. We will reconcile the EDR–404B proposal with our action here, when and if we adopt a final rule. We agree that carriers should not be required to file fare conditions when fares themselves are not filed. Pending completion of the rulemaking in EDR–404B, carriers must continue to file rules contemplated in the proposed § 221.8(a), which deals with subjects other than price and eligibility. Rules contemplated by proposed § 221.8(b), which do establish price and availability, need only be filed for those fare categories a carrier must or chooses to file.

c. Tariff flexibility will cause substantial harm

Other public interest arguments predict substantial injury to the traveling public, air carriers or travel agents if the tariff flexibility rule is adopted. ASTA and USAir maintain that air carriers will have no choice but to give businesses volume discounts or some other price concession. Net yields will be lower and carriers will have to recoup the money from other passengers. ASTA argues that prices do not have to fall below cost before passengers must cross-subsidize those discounts; they need only bear a different relationship to cost for each class of traffic.

We reject arguments that there are no real cost savings from volume traffic and that air carriers will pursue uneconomic pricing policies. Our discussion of volume discounts in Order 81–7–108 suggested several types of economies that may serve to justify price concessions to business travel departments or volume purchasers, including the assurance of passenger volume that comes with a purchase commitment, and the cost savings that result when business travel departments handle corporations' ticketing and reservations. Since similar efficiencies are commonly recognized in purchase contracts in unregulated industries, the objection to our conclusions by some opponents is difficult to understand. But, in any event, we are not convinced that their perceptions are universally shared by all carriers or future entrants, and we certainly do not believe that their attitude toward volume discounts should be imposed on their competitors.

If there are efficiencies that can be generated through pricing plans that are now being inhibited by the tariff system, the fare paid by the BTD customer or large purchaser may be higher than the cost of providing service to those passengers. There is no reason to deny some passengers the benefits of a fare more directly related to their costs of service on the assumption that discretionary travellers will suffer. As we pointed out in Order 81–7–108, carriers will price their services in a manner that takes into account both the cost characteristics and demand characteristics of all types of passengers. Competition will prevent them from overcharging discretionary travelers to cross-subsidize volume users. There is no reason for the Board to usurp the function of the competitive marketplace in determining whether and to what extent such discounts are justified.

American Express and ARTA assert the proposed rule fails to take into account the fact that travel agents, because of rules of the Air Traffic Conference and the principal-agent relationship itself, will not be on an equal competitive footing with air carriers. American Express and ARTA point to subsection VII .J. of ATC Resolution 90.3 and the terms of the Standard ATC Passenger Sales Agency Agreement—which provide that a travel agent shall comply with the instructions of a carrier and adhere to the tariffs, rules and regulations of the carriers—to suggest that travel agents will be placed at a significant competitive disadvantage if carriers may specify fixed fares to be charged by ticket agents and not be bound to charge those fares themselves.

Air carriers are free, right now, to file tariffs stating one price for a ticket purchased directly from the air carrier and another price for a ticket purchased from another marketer. As such, the rule does not give carriers a new freedom to undercut their agents. Moreover, the fact that they have not done so in the past suggests carriers are cognizant of the effects of their decisions on their primary marketing arm. In any event, the argument overlooks the fact that the current air transportation system hardly places travel agents and air carriers on an equal competitive footing. Existing ATC and IATA agreements are replete with examples of constraints on travel agent sales, such as location limitations, in-plant sales limitations, and a wide variety of constraints on the way travel agents can conduct their businesses. It has only been in the recent past that travel agents have gained the right to commissions on significant segments of the nondiscretionary travel market. Current ATC and IATA resolutions do no more than affirm a principal's right to bind its agents to the contract terms upon which they have agreed. If that contract includes a provision requiring the agent to adhere to prices set by the air carrier, and the air carrier chooses to undercut the agent on some segments of its traffic, the carrier principal will have to bear the likely consequences of an adverse reaction by its agents. The hearing record on the pricing issues in the *Marketing* case establishes that air carriers will act very carefully in this regard because travel agents are their primary marketing arm, often accounting for sixty percent or more of an air carrier's sales. Moreover, American Express and ARTA's arguments are directed to the portions of the *Marketing*

case that are still pending. The agents will be free to argue about the effects of tariff flexibility on outstanding agreements issues.

ARTA, ASTA and IATA argue that tariff flexibility will result in the contraction of the travel agency system. ARTA maintains that the contraction will result from larger agents' ability to demand and obtain price concessions that are unavailable to smaller agents. IATA, and apparently ASTA as well, maintain the contraction from the present system will be caused by a shift to individual carrier/agent contracts.

Both these arguments were addressed at length in Order 81-7-108. If price concessions are granted to volume purchasers, small medium size travel agents may be able to aggregate demand to command similar concessions. In addition, large agents do not often directly compete with small agents. Smaller agents are concentrated in smaller cities and towns and suburban areas and provide a convenient marketing outlet for the general public. Larger travel agents are concentrated in cities and often specialize in serving corporate clients. These agents are in the best position to adjust to the new pricing practices if price concessions are granted to BTD's. As for ASTA's and IATA's argument, we can only reiterate that our policy is a permissive one. Nothing in our policy mandates a significant change in pricing practices.

ASTA's IATA's and TWA's assertions that we have not fully considered the possible costs of our proposed policy are simply incorrect. As discussed in Order 81-7-108 and throughout this notice, we have carefully considered the burdens that the policy will allegedly create. We have concluded that they will not arise or are not significant, and we are confident that increased pricing freedom will be beneficial to the public and the air transportation system.

Deferral Pending Future Legislation

American Airlines, American Express, ARTA, ASTA, IATA, Republic and USAir all argue that because Congress may reconsider the elimination of the tariff filing requirement in domestic air transportation, it is inappropriate for the Board to take action now which might preempt one of the legislative alternatives.

Until such time as the Federal Aviation Act is amended, our responsibility is to act in a manner that is consistent with the current legislative mandate. We should not speculate about what new legislation, if any, Congress will adopt nor should we allow the mere introduction of legislation to forestall action that we find to be in the public interest.

ASTA and TWA also assert that the Deregulation Act contains its own timetable for the elimination of tariffs and that the tariff flexibility rule illegally accelerates that timetable. First, we note that this characterization is inaccurate since our rule will not eliminate tariffs. In any event, Congress, in giving us the exemption power, clearly contemplated that there might be circumstances in which departures from specific statutory provisions would be proper. We have determined that our tariff flexibility proposal will help assure a smoother transition and that it is therefore in the public interest. In *National Small Shipments Traffic Conference* v. *CAB*, 618 F. 2d 819 (D.C. Cir. 1980), the court held that the Board did not exceed its statutory authority to grant exemptions from the provisions of the Federal Aviation Act in exempting domestic cargo carriers from the duty to file tariffs and to provide air transportation service upon reasonable request.

ARTA broadly alleges that our action will preempt portions of the Agreements Phases of the *Competitive Marketing Investigation*. That issue was addressed at length in Orders 80-12-92, December 18, 1980 and 81-1-59, January 13, 1981 and need not be re-examined here.

International Issues

IATA, and to some extent British Airways, object to the Board's proposal because it does not resolve issues raised by the use of service between two domestic points in conjunction with service to a foreign point. IATA argues that such service is really service in foreign air transportation under established Board precedent, and that the Board is obliged to continue to require carriers to file binding tariffs in those markets. IATA also argues that the provision in most bilateral treaties giving foreign governments a right to have advance notice of prices for foreign air transportation requires the filing of binding domestic tariffs. IATA reasons that the ability to combine a domestic fare with a foreign fare renders that domestic fare a fare in foreign transportation. This in turn gives foreign governments a legitimate interest in domestic fares, including a right to advance notice and prior approval. Moreover, according to IATA, the U.S. Government must have an accurate knowledge of domestic fares which are combinable in foreign air transportation to undertake consultations with foreign governments in the event that they have objected to such fares.

IATA's arguments go much too far. If adopted, they would require the filing of an exact fare for every domestic market because service in any domestic market might be combined with service to a foreign point. The term "foreign air transportation" as currently understood for the purposes of filing requirements under the Act and bilateral obligations is much more limited. It clearly covers tariffs for through fares for on-line service, joint fares for interline service and arbitraries used to construct interline fares to interior U.S. points. Such fares would not be affected by our rule and their filing will continue to be mandatory. Between such tariffs and purely domestic fares there may be fares that raise uncertainties; these are best analyzed on a case-by-case basis and in a specific factual context.

IATA suggests that the right to monitor through fares for online services or the arbitraries used to construct interline fares does not fulfill the right to advance notice and approval of fares because some passengers might combine a domestic fare to a gateway with a foreign air transportation segment from that gateway. We reiterate a point made in Order 81-7-108: our bilateral agreements do not give foreign governments the right to dictate the terms of the domestic air transportation system, even though changes in the domestic system may incidentally affect foreign air transportation.

U.S. carriers have never submitted domestic tariffs to foreign governments. Nor have we required foreign carriers to file their intra-border tariffs with us under section 403 on the theory that a U.S. originating passenger might continue his journey beyond the foreign gateway using a fare offered by a foreign carrier for domestic transportation in its country. Passengers are now free to use discount fares in conjunction with a foreign segment by double ticketing. Under IATA's reasoning, foreign governments would have the right to disapprove domestic discount fares, such as supersaver or low-priced point-to-point fares, simply because some passenger could use these fares in combination with a foreign journey. Such an expansive reading of our obligations under the bilateral agreements is untenable. Our consistent practice has been to require the filing of foreign carriers' intra-border fares only to the extent that they are reflected in through or joint fares to U.S. points.

IATA supports its broad definition of foreign air transportation by resort to Board precedent in which we have considered the ultimate origin and

destination in defining transportation as foreign or domestic. In fact, we have rejected that test when necessary to preserve a fundamental policy of the Act. In the *Qantas Empire Airlines Limited Foreign Transfer Traffic* Case, 29 CAB 33 (1959) for example, we declined to apply the origin-destination test when it would have permitted a foreign carrier to transport passengers between two U.S. cities even though all passengers were connecting to the service of another carrier providing the international leg of a through trip. In an even earlier case, we refused to treat the addition of a New York-Miami route to the domestic certificate of National Airlines as foreign air transportation requiring Presidential approval under section 801 because passengers over the new route might connect with the international services of Pan American at Miami. We concluded that this interpretation would produce results ". . . obviously contrary to the intent of the [Act]". *Colonial Airlines, Inc. et al., Atlantic Seaboard Operation*, 4 CAB 633, 634 (1944). While some fares, those including stopovers for example, present special problems and uncertainties about the status of service between domestic points, these uncertainties need not preclude Board action. Rather, we believe that such questions can best be resolved on a case by case basis.

IATA's interpretation of our bilateral responsibilities would, as a practical matter, nullify section 1601(a)(2) of the Act by requiring the continued filing of virtually all domestic fares after 1983. Under IATA's theory, any fare that could conceivably be used with a foreign fare would have to be filed. Indeed, even those fares which a carrier specified were noncombinable would have to be filed because passengers could circumvent this restriction by double ticketing. Since IATA maintains that knowledge of domestic fares is required so that foreign governments may exercise their bilateral rights to reject fares in foreign air transportation, it argues in effect that foreign governments have a right to suspend fares at a time when the Board's own jurisdiction to do so has been greatly circumscribed. *See* Section 1002. This result is clearly at odds with the intent of the statute.

IATA as well as British Airways claim that the fair and equal access provisions of U.S. bilateral agreements assure foreign carriers the opportunity to compete for traffic originating at interior U.S. points by interline service over gateway cities. These commenters argue that EDR-429 will deny fair and equal opportunities to compete in two ways. IATA and British Airways first allege that U.S. carriers will be able to undercut foreign carriers' through fares by offering unpublished fares over the domestic segment and labelling them as domestic air transportation. These commenters envision that foreign carriers could not compete because they would have no way of verifying prices. British Airways further argues that carriers have in fact already tried to develop noninterlinable passenger fares and cargo rates as evidenced by complaint proceedings in Docket 39595 (Northwest Airlines' Export Inland Contract Rate), and 38899 (Visit USA Fares).

Even if we accept *arguendo* IATA's interpretation of the fair and equal access provisions, its argument overlooks current industry practice as well as the practice that is likely to develop in the absence of binding domestic tariffs. Currently, air carriers rely heavily on unofficial rate books as well as computerized fare information in determining through fares. Neither of these methods of distributing pricing information is a binding tariff. Moreover, special tariff permission rules already permit fare changes on as little as 12 hours notice and therefore would provide little advance warning to foreign governments.

In any event, it is unlikely that reliable fare information will disappear if binding tariff-filing requirements are reduced. Based on the practice in most industries, it is reasonable to expect that carriers will not negotiate with each and every customer, as this argument assumes. Rather, they are more likely to establish and advertise a price generally fair, available to most passengers as a matter of corporate policy. In practice, tariffs are not the primary or most convenient method of obtaining pricing information now. Pricing information will continue to be disseminated to the public in some way and foreign carriers and governments will be able to obtain information on domestic segments in this manner. If they determine through these means that U.S. carriers are attempting to avoid their obligation to file tariffs for foreign air transportation, as has been alleged in the dockets referred to by British Airways, we will consider requests to enforce this requirement. Whether a particular service is foreign air transportation is often a factual question which can only be resolved in a specific proceeding such as the pending cases cited above.

IATA and British Airways also argue that foreign carriers will be denied fair and equal access to the U.S. market as a result of the impact of tariff flexibility on travel agents. Specifically, each claims that foreign carriers are particularly dependent on travel agents, especially for sales at interior points; that the travel agency system will contract sharply as a result of the loss of domestic business; and that this, in turn, will reduce foreign carriers' access to interior traffic and place them at a competitive disadvantage vis-a-vis U.S. carriers.

The impact of tariff flexibiliy on the agency system was thoroughly litigated in the Phase 5 proceedings and was considered by us at length in Order 81-7-108. We concluded at that time that it would not bring about any fundamental changes in the scope of the existing travel agency network. IATA has presented no new arguments or evidence that foreign carriers will lose substantial agency representation in cities where domestic carriers maintain ticket offices. In other cities, of course any reduction in agency locations, although unlikely, would affect U.S. carriers in much the same way as foreign carriers.

IATA argues that the absence of binding tariffs governing rules and fares for domestic transportation will, as a practical matter, virtually eliminate the interline system. It states that the absence of interlining opportunities will render travel to interior points by foreign originating traffic much more difficult and will impinge on foreign carriers' rights to fair and equal access to compete for interior point traffic in the U.S.

To a large extent, IATA's arguments on the continued viability of interlining are more appropriately considered in connection with EDR-404B, the proposed rule to eliminate certain domestic rules tariffs. In any event, exact price tariffs and rules tariffs will still be filed under today's rule for domestic portions of international fares. Foreign carriers will accordingly be able to continue to use standardized traffic documents and the industry-wide settlement systems currently in place for their interline traffic to interior U.S. points. For the same reason, we will also deny British Airway's request that we modify proposed § 221.3(e)(2) to state that negotiated joint fares in foreign air transportation be filed as binding tariffs. Since we will treat such joint fares as involving foreign air transportation and § 221.3(e) by its terms applies only to interstate and overseas air transportation, no modification of our proposal is required. Section 221.3(e)(2) simply does not apply to these fares.

The Alternate Proposals

In EDR–429, we solicited comments on an alternate proposal that would require filing each generally available fare category. American Express, BDA, DOJ, Farmland Industries, General Mills, and NPTA prefer the first alternative, which requires only the publication of unrestricted coach fares. They submit that to the extent that filing of fares in tariffs continues to make sense, carriers will do so without a Board requirement and that there are numerous reasons not to require the filing of all fare categories. They argue that mandatory filings would inhibit price innovations by increasing the cost of implementing new pricing programs and the risk that they would be challenged and blocked by government action. By providing more notice of pricing practices to other carriers, the alternative rule would reduce the incentive to experiment. Finally, the definition of "generally available fare category" is susceptible to the interpretation that any fare offered to a generic class of customers would have to be filed, including, for example, a standard corporate discount. Such an interpretation would result in virtually no increase in pricing freedom.

American, Carnation and Pan American prefer the alternative of requiring the filing of fares for each generally available fare category, which they believe is a less drastic transitional step. Except for the nonbinding nature of the filed fares, they argue that the system would be essentially the same as the current one and would require fewer immediate modifications of interlining practices and computer reservation systems. American has proposed a definition of "generally available fare category" that would confine it to sales to individually ticketed passengers by carriers or their agents. According to the carrier, this definition would permit carriers to implement both net fare and volume discount policies without disclosing them in tariffs.

We have decided to require only the filing of an unrestricted coach fare and, where different, a fare for use in construction of joint fares. Proponents of this alternative have suggested a variety of reasons why requiring that all fare categories to be filed would inhibit carriers from engaging in legitimate pricing experiments. Given the permissive nature of the first alternative, carriers can voluntarily file additional fare information. Arguments for the second alternative merely recount reasons why carriers have incentives to file their full array of fares and conditions. Since our action will not foreclose their opportunity to do so, the system that evolves in the near term may well resemble the second alternative. But that decision should be left to individual carriers. Finally, it is by no means clear that fare information will not be available from carriers that refrain from voluntarily filing their fares in tariffs. Carriers use other means to distribute price information now, and parties have not provided any sound reasons why carriers will not continue to disseminate reliable price information on generally available fares even when they do not use tariffs.

Requests for Modification and Clarification

American Express, BDA, DOJ, Republic and Southwest all suggest that we clarify the extent to which we are granting travel agents and air carriers pricing freedom by this rule. American Express and Southwest request that we make it clear that travel agents are free to charge prices above those on file with the Board. Southwest believes that in the absence of such a statement, contractors in its Ticknet program may be found to be ticket agents and foreclosed from charging premium prices for certain flights. American Express suggests that the Board approve the assessment of service charges by travel agents for what it describes as additional amenities. While it believes the issuance of a single factor ticket is clearly not an amenity, it submits that ticket re-issuance or revalidation and issuance of highly complex tickets involve additional services that should be compensable. It recommends that we consolidate Docket 37642, where service charges are at issue, into this proceeding.

Both requests would entail major changes in our transitional policy in order to accommodate the pricing practices of individual carriers or agents. Only relatively minor changes in these carriers' pricing practices would be necessary to fall within the pricing flexibility the rule would afford air carriers and travel agents. As we indicated in Order 81–7–108, our policy reflects an effort to accommodate generally the concerns of various parties to the proceeding. Among those concerns were the need to assure the public of a cap on basic fares in a given market, to provide air carriers and travel agents with a fare to use for interline fare construction, and to meet our monitoring and fare oversight reponsibilities. We concluded and remain convinced that the best way to accomplish these goals is to continue to require carriers to file unrestricted coach fares and to prohibit them or their agents from charging prices above that amount. If carriers afford their travel agents the freedom to set the price of air transportation, and find that agents cannot compete at or below the unrestricted coach price, air carriers should file a higher unrestricted coach fare, or file a tariff indicating that travel agents may charge a higher price up to a specified ceiling. Of course, the filed ceiling cannot exceed the SIFL level plus fare flexibility, unless it has been specifically justified. We will require Southwest to use its special exemption and tariff mechanism to maintain its Ticknet program, unless it is willing to file fares to serve as ceiling fares for Ticknet sellers under the tariff filing policy we are adopting. We do not intend that our tariff flexibility policy foreclose nonconforming marketing strategies, but we are not prepared to incorporate exceptions in the policy itself. Similarly, if carriers afford it the freedom to set prices, American Express can set a specific price, or a series of prices reflecting the different levels of service that it provides customers, as long as its total price is below the unrestricted coach fare or other fare on file. Charges in excess of the filed fare are permissible only if a special tariff is on file. We will not consolidate Docket 37642, as American Express has requested, because we still want to address the question of permissible service charges generally.

Next, DOJ has asked us to relax provisions of the proposed rule that make constructed interline fares binding on carriers and agents except where carriers have agreed to charge lesser amounts. DOJ argues that we should permit carriers to charge less, unilaterally, over their own segments of interline journeys. We believe that such a modification in the proposed rule is unnecessary at this time. The rule as proposed will allow carriers to negotiate interline arrangements that include the option of pricing flexibility and therefore imposes no substantial barrier to experimentation. In addition, mandatory joint fares are due to expire at the end of 1982 and we are now considering a number of issues relating to joint fares in another rulemaking. PSDR–70; 46 FR 29719; June 3, 1981. The proposed changes in the fare and division formulas, in that proceeding, may encourage voluntary interline agreements.

Nor will we eliminate or modify, as DOJ suggests, the provisions in § 221.3(e)(3), which states that carriers may arrange, by contract with their ticket agents, to specify fixed fares to be charged by the ticket agents. DOJ's concern that the section may create new

rights in the air carrier/travel agent relationship is unfounded. The provision merely states existing carrier rights in the principal agent relationship and emphasizes that no Board approval or antitrust immunity is conferred on such arrangements. BDA requests we make it clear that air carriers are free to limit travel agents' prices to certain ranges and to set minimum prices. DOJ adds that we should clarify the rule to establish that air carriers may charge less than their prices on file even though they are requiring their agents to adhere to those prices. Our discussion of the issues raised in the various comments makes it clear that these practices are permissible.

Republic has suggested a more fundamental change. It would have us fashion our rule so that agents are exempted from section 403 only where a carrier expressly agrees to let them deviate from filed fares. Under this suggestion, carriers would be required to take no action to maintain unitary pricing. We reject this approach. While principals have the right to set the price at which agents sell in most industries, this right is established and enforced as a matter of contract law, rather than through federal regulation. Republic can maintain unitary prices simply by instructing its agents. Our proposal imposes no burden on air carriers other than that which exists in all unregulated industries.

USAir asks us to provide clear guidance on the extent to which carriers can experiment with fares. For example, it asks for clarification of whether price concessions to volume purchasers can be made at the accounting level (rather than at time of purchase) and whether volume discounts must be cost related. In any event, it asserts that air carriers must be granted an exemption from section 404 of the Act to insure that carriers are not subject to complaints of unjust discrimination and undue prejudice or preference in the sale of air transportation. USAir misunderstands the import of our decision. We did not, by our decision, propose any change in our discrimination policies. Our current statement on acceptable price differentiations under section 404(b) is PS-93, 45 FR 36058, May 29, 1980. PS-93 sets forth at length the circumstances in which we would be willing to interfere with carriers' pricing judgments. In Order 81-7-108 we examined the record in the *Marketing* case in light of those standards and determined in a generic sense that there could be a number of cost justifications for price concessions to corporations or other volume purchasers. We therefore saw no reason to block tariff flexibility. However, it may be that an individual price discount will not be justified and, upon receipt of a complaint against that fare, we would review it under the standards of PS-93. It is incumbent upon individual air carriers to assess their pricing policies and proposed price concessions in light of PS-93, which provides the specific guidance on discrimination questions sought by USAir.

BDA suggests that we should not reconsider our tariff filing policies in a year, as we proposed to do in Order 81-7-108. In its view, it would serve little purpose since the domestic tariff filing requirement is set to expire on December 31, 1982. We disagree. We intend to both continuously monitor air carrier pricing practices under the tariff flexibility rule—to insure that pricing innovation proceeds as we expect—and to afford interested persons an opportunity to comment on the effects of our transitional policies. Both these processes should be completed by September 1, 1982, in time to report our conclusions to Congress.

For the reasons set forth above and in Order 81-7-108, we believe the public will be best served by implementation of the first alternative proposed in EDR-429 and by making this final rule effective on October 1, 1981. We announced in the Order that October 1st would be the likely effective date of any final action, and affected persons may well have begun to plan pricing strategies on the basis of that announcement. Postponing the effective date until 30 days after publication of this rule may result in public confusion, and would deprive passengers of potential benefits from the earliest possible implementation.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule, pursuant to 5 U.S.C. 604. Copies of this document can be obtained from the Distribution section, Civil Aeronautics Board, Washington, D.C. 20428 (202) 673-5432, by referring to the "ER" number at the top of the document.

Schaffer, Member, Concurring and Dissenting

As previously indicated, I favor the more moderate alternative proposal which would require the filing of each generally available fare rather than just the normal economy fare. The alternative is a less drastic, more easily understood proposal which would provide a proper transition as we move to a tariff-less environment.

As several proponents of the alternative point out, the system would be essentially the same as the current one and would require fewer immediate modifications of interlining practices and computer reservation systems while, at the same time, allowing the full measure of price flexibility and innovation that the majority wishes to encourage.

Moreover, the alternative really wouldn't result in any increased costs since the carriers already have tariff filing systems in place and the definition proposed by American Airlines, that "generally available fare category" be confined to fares offered to individually ticketed passengers by carriers or their agents, blunts the argument that a standard corporate discount fare would have to be filed under this proposal. In short, the alternative offers the same full range of pricing freedom allowed by the proposal adopted here, but keeps public and carrier confusion to a minimum.

Gloria Schaffer.

The Amendments

PART 221—TARIFFS

Accordingly, the Board amends 14 CFR Part 221, *Tariffs*, as follows:

1. The authority for Part 221 is:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.

2. In § 221.3, the first sentence of paragraph (a) is amended by inserting "or (e)" and a new paragraph (e) is added, to read:

§ 221.3 Carrier's duty.

(a) *Must file tariffs.* Except as set forth in paragraph (d) or (e) of this section, * * *

* * * * *

(e) *Domestic passenger fare tariffs.* For interstate and overseas air transportation of passengers, the following provisions apply to each pair of points served by an air carrier:

(1) The carrier shall file a tariff stating an unrestricted coach fare for service between those points. The carrier may also file tariffs describing other fare categories (*e.g.*, first class, super-saver). Such tariffs shall include the availability conditions applicable to each fare category filed. The carrier shall not charge any passenger more than the fare on file for the fare category purchased by the passenger, but may charge less than that fare. If there is no fare on file for the fare category purchased by the passenger, the carrier shall not charge more than the unrestricted coach fare on file, except for service that includes additional amenities.

(2) The carrier shall also file a tariff stating the amount to be used for construction of joint fares for interline service, if that amount is different from the unrestricted coach fare on file. Joint fares constructed from such filed

amounts shall be binding on carriers and ticket agents except for interline routings where the carriers have agreed to charge lesser amounts.

(3) Ticket agents shall not charge any passenger more than the fare on file for the fare category purchased by the passenger, but may, except as set forth in paragraph (e)(2) of this section, charge less than that fare. If there is no fare on file for the fare category purchased by the passenger, the ticket agent shall not charge more than the unrestricted coach fare on file except for service that includes additional amenities. A carrier may arrange, by contract with its ticket agents, to specify fixed fares to be charged by the ticket agents, and may provide notice of such arrangements in its tariffs. Failure of ticket agents to observe such arrangements will not, however, be considered a violation of the Act or of Board rules. The Board does not hereby approve such contractual arrangements under section 412 of the Act or exempt them from the antitrust laws under section 414.

(4) Air carriers and ticket agents are exempt from the requirements of section 403(a) and (b)(1) of the Act and the other provisions of this part to the extent necessary to allow the filing of tariffs and the charging of prices for interstate and overseas air transportation as set forth in this paragraph (e).

(5) In this paragraph, "charge" includes "charge," "collect," "demand," and "receive," as those terms are used in section 403 of the Act.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27561 Filed 9-21-81; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6326, IC-11850, AS-294, File No. S7-865]

Standardization of Financial Statement Requirements In Management Investment Company Registration Statements and Reports to Shareholders

Correction

In FR Doc. 81-20597 appearing at page 36120 in the issue for Tuesday, July 14, 1981, make the following correction:

On page 36125, in the first column, in the last line, in § 210.3-18(c), "the current balance sheet" should have read "the most current balance sheet".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 175 and 177

[Docket No. 79F-0415]

Food for Human Consumption; Indirect Food Additives

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to reinstate the terms "Sodium dodecylbenzenesulfonate" and "Sodium decylbenzenesulfonate" to certain regulations allowing the use of these substances as indirect food additives. This action is in response to objections received following publication of a final rule which provided for the safe use of *n*-alkylbenezenesulfonic acid and its ammonium, calcium, magnesium, potassium, and sodium salts as emulsifiers and/or surface-active agents in the manufacture of articles or components of articles intended to contact food.

DATES: Effective September 22, 1981; objections by October 22, 1981.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 10, 1980 (45 FR 67320), FDA issued a final rule amending the food additive regulations in § 178.3400 *Emulsifiers and/or surface-active agents* (21 CFR 178.3400) to provide for the safe use of *n*-alkylbenzenesulfonic acid and its ammomiun, calcium, magnesium, potassium, and sodium salts as emulsifiers and/or surface-active agents in the manufacture of articles or components of articles intended for food-contact applications. The order further amended the food additive regulations by deleting the item "Sodium dodecylbenzenesulfonate", from § 175.300, § 177.1010, and § 177.2600 (21 CFR 175.300, 177.1010, and 177.2600) and the item "Sodium decylbenzenesulfonate" from § 177.2600, because the agency then believed that the amendment to § 178.3400 would provide for use of the deleted additives.

FDA has received written objections from two firms to the final rule amending § 178.3400 and deleting the item "Sodium dodecylbenzenesulfonate" from §§ 175.300, 177.1010, and 177.2600, and the item "Sodium decylbenzenesulfonate" from § 177.2600. Both objectors claimed that the agency's action affects them adversely. A summary of the objections raised in these submissions and the agency's responses follow:

1. *"Hard" (i.e., branched chain) vs "soft" (i.e., linear or n-alkyl) benzenesulfonate surfactants.* The objections indicated that the term *n*-alkyl-benzene sulfonic acid and its salts denotes only a linear chain, and might be interpreted as not including a branched chain dodecylbenzene sulfonate sodium salt. The objection pointed out that the previous designation "dodecylbenzene sulfonate" did not distinguish between a linear or branch chain, and that the names sodium dodecylbenzenesulfonate in §§ 175.300, 177.1010, and 177.2600 and/or sodium decylbenzenesulfonate in § 177.2600 as currently listed encompass both "hard" (i.e., branched chain) surfactants and "soft" (i.e., linear *n*-alkyl) surfactants. Both "hard" and "soft" surfactants are being sold and used under the food additive regulations.

The agency agrees with the objections and finds that in its effort to simplify the listings of the alkylbenzenesulfonate surfactants, the term sodium dodecylbenzenesulfonate was improperly deleted from §§ 175.300, 177.1010, and 177.2600 and the term sodium decylbenzenesulfonate was improperly deleted from § 177.2600. The agency concludes that both terms should be reinstated in the appropriate subsections.

2. *Use limitations.* One objection stated that "Sodium *n*-alkylbenzenesulfonate (alkyl group * * *)" had been cleared under § 178.3400 without a limitation. The objection interpreted this to mean that the substance may be used in many appropriate indirect food additive situations subject to the provisions of § 174.5, and that the amendment to § 178.3400 limiting the use of the sodium salt to certain named regulations would be a substantive, not an editorial change.

The agency concludes that this interpretation is incorrect. The

regulation authorizing the use of the additive was published in the May 18, 1966 issue of the **Federal Register** (31 FR 7227) in response to a food additive petition. At that time, the regulation had limited the use of the additive to a component of certain food-contact articles complying with specific food additive regulations. However, in the 1978 issue of Title 21 of the Code of Federal Regulations this limitation on the use of the substance was inadvertently listed in the limitations column for the item "Sodium 1,4-dicyclohexyl sulfosuccinate." In the 1979 edition of the CFR, this limitation was removed from the entry for "Sodium 1,4-dicyclohexyl sulfosuccinate," but was then incorrectly placed under the entry for "Sodium *n*-alkylbenzenesulfonate (alkyl group * * *)" in the column under "List of substances." The October 10, 1980 rule correctly reinserted the limitation in the appropriate column for the item "Sodium *n*-alkylbenzene-sulfonic acid (alkyl group * * *"). The agency thus rejects the firm's objection because no new limitation has been prescribed for the additive. The October 10, 1980 change was nonsubstantive and was made solely to correct a number of previous editorial errors, as explained above.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s) and 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Parts 175 and 177 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

§ 175.300 [Amended]

1. Part 175 is amended in § 175.300 *Resinous and polymeric coatings* by alphabetically inserting the item "Sodium dodecylbenzenesulfonate" in the list of substances in paragraph (b)(3)(xxix) of section.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1010 [Amended]

2. Part 177 is amended:

a. In § 177.1010 *Acrylic and modified acrylic plastics, semirigid and rigid* by redesignating paragraph (a)(7) as (a)(8) and adding new paragraph"(a)(7) Surface active agent: Sodium dodecylbenzenesulfonate."

§ 177.2600 [Amended]

b. In § 177.2600 *Rubber articles intended for repeated use* by alphabetically inserting the items "Sodium decylbenzenesulfonate" and "Sodium dodecylbenzenesulfonate" in the list of emulsifiers in paragraph (c)(4)(viii).

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 22, 1981 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 22, 1981.

(Secs. 201(s) and 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s) and 348))

Dated: September 15, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-27482 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Amprolium and Carbarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for the safe and effective use of a complete turkey feed manufactured by combining separately approved amprolium and carbarsone premixes. The feed is used as an aid in preventing outbreaks of coccidiosis and blackhead.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION:

Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, filed an NADA (118–507) providing for use of amprolium at 113.5 to 227 grams per ton (0.0125 to 0.025 percent) in combination with carbarsone (not U.S.P.) at 227 to 340.5 grams per ton (0.025 to 0.0375 percent) in finished turkey feeds to aid in prevention of coccidiosis and blackhead. The firm submitted data to comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. The NADA is approved and the regulations are amended to reflect this approval.

Approval of this NADA relies in part upon safety and effectiveness data contained in Merck Sharp & Dohme's NADA 12–350 for amprolium and Whitmoyer Laboratories NADA 10–285 for carbarsone (not U.S.P.). Use of those data to support this NADA has been authorized by both firms. This approval does not change the dosage levels or indications for the drugs. Residues from each drug component in the combination are below their corresponding tolerances at withdrawal times currently established for their individual use. The agency concludes that this approval poses no increased risk to humans exposed to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) this NADA has been treated as a Category II supplement which did not require a reevaluation of the underlying human safety data in NADA's 12–350 and 10–285.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. In § 558.55 by alphabetically adding a new carbarsone subitem to paragraph (e)(2)(iv), to read as follows:

§ 558.55 Amprolium.

* * * * *

(e) * * *

(2) * * *

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iv) * * *	* * *	* * *	* * *	* * *
	Bacitracin plus penicillin 100 to 500 (of combination).	* * *	* * *	
	Carbarsone 227 to 340.5	Turkeys; aid in prevention of coccidiosis (*Eimeria adenoeides, E. meleagrimitis,* and *E. gallopavonis*) and blackhead.	Feed continuously 2 weeks before coccidiosis and blackhead are expected and continue as long as prevention is needed; withdraw 5 days before slaughter; use as sole source of amprolium and organic arsenic; do not use as a treatment for outbreaks of coccidiosis; carbarsone by 011794 in § 510.600(c) of this chapter.	000008

2. In § 558.120 by adding new paragraph (e)(2)(ii) to read as follows:

§ 558.120 Carbarsone (not U.S.P.).

* * * * *

(e) * * *

(2) * * *

(ii) Amprolium as in § 558.55.

Effective date. This amendment is effective September 22, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 15, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-27484 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin and Lasalocid Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by SmithKline Animal Health Products, Division of SmithKline Corp., providing for the use of virginiamycin in combination with lasalocid sodium in broiler or fryer chicken feeds for increased rate of weight gain and improved feed efficiency, and for the prevention of coccidiosis.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19101, filed an NADA (122-608) providing for manufacture of broiler or fryer chicken feeds containing 20 grams per ton of virginiamycin for increased rate of weight gain and improved feed efficiency in combination with 68 to 113 grams per ton of lasalocid sodium for the prevention of coccidiosis. The firm submitted data to comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. Each drug is presently regulated for use alone in broiler chicken feed for the same individual drug claim. Effectiveness of virginiamycin as a growth enhancer for broiler chickens is established by data from controlled clinical studies which also indicate the optimal dose level and also establish that such effectiveness is not diminished in the presence of lasalocid sodium. This approval does not change the indications for the drugs. Effectiveness of lasalocid sodium for the intended use is established by data from controlled studies and such data establish that virginiamycin does not interfere with the anti-coccidial effect of lasalocid sodium. Safety of the drug combination to broiler or fryer chickens is established. This approval does not change the indications for the drugs. Residues from each drug component in the combination are below their corresponding tolerances at withdrawal times currently established for their individual use.

The agency concludes that this approval poses no increased risk to humans exposed to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this NADA has been treated as a Category II supplement which did not require a reevaluation of the underlying human safety data on the drugs. The application is approved and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an enivronmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive

Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. In § 558.311 by revising paragraph (b) and adding a fifth entry to the table in paragraph (e) to read as follows:

§ 558.311 Lasalocid sodium.

* * * * * *

(b) *Approvals.* (1) Premix levels of 3.0, 3.3, 3.8, 4.0, 4.3, 4.4, 5.0, 5.1, 5.5, 5.7, 6.0, 6.3, 6.7, 7.2, 7.5, 8.0, 8.3, 10.0, 12.5, 15, 20, and 50 percent lasalocid sodium activity granted to 000004 in § 510.600(c) of this chapter for use as provided in paragraph (e)(1), (2), (3), and (4) of this section.

(2) Premix level of 15 percent lasalocid sodium activity granted to 000007 as provided by 000004 in § 510.600(c) of this chapter for use as provided in paragraph (e)(5) of this section.

* * * * * *

(e) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitation	Sponsor
(5) 68 (0.0075 pct) to 113 (0.0125 pct).	Virginiamycin 20	For prevention of coccidiosis caused by *Eimeria tenella E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and for increased rate of weight gain and improved feed efficiency.	For broiler and fryer chickens only; feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days before slaughter; lasalocid sodium provided by No. 000004 in § 510.600(c) of this chapter.	000007

2. In § 558.635 by adding new paragraph (f)(3)(ii) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(f) * * *

(3) * * *

(ii) Lasalocid sodium in accordance with § 558.311.

Effective date. This amendment is effective September 22, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated September 15, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-27483 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin and Monensin Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by SmithKline Animal Health Products, Division of SmithKline Corp., providing for the use of virginiamycin in combination with monensin sodium in broiler or fryer chicken feeds for increased rate of weight gain and improved feed efficiency, and to aid in the prevention of coccidiosis.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: SmithKline Animal Health Products, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19109, filed an NADA (122-481) providing for manufacture of broiler or fryer chicken feeds containing 5 grams per ton of virginiamycin for increased rate of weight gain and improve feed efficiency in combination with 90 to 110 grams per ton of monensin as monensin sodium as an aid in the prevention of coccidiosis. The firm submitted data to comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. Each drug is presently regulated for use alone at such levels in broiler chicken feed for the same individual drug claim. Effectiveness of virginiamycin as a growth enhancer for broiler chickens is established by data from controlled clinical studies which also indicate the optimal dose level and also establish that such effectiveness is not diminished in the presence of monensin sodium. Effectiveness of monensin sodium for the intended use is established by data from controlled studies and such data establish that virginiamycin does not interfere with the anticoccidial effect of monensin sodium. Safety of the drug combination to broiler or fryer chickens is established. This approval does not change the indications for the drugs. Residues from each drug component in the combination are below their corresponding tolerances at withdrawal times currently established for their individual use.

The agency concludes that this approval poses no increased risk to humans exposed to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approved policy (42 FR 64367; December 23, 1977) this NADA has been treated as a Category II supplement which did not require a reevaluation of the underlying human safety data on the drugs. The application is approved and the regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of

Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. In § 558.355 by adding new paragraphs (b)(5) and (f)(1)(xiii) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(5) To 000007: 45 grams per pound as monensin sodium as provided by No. 000986 in § 510.600(c) of this chapter, paragraph (f)(1)(xiii).

* * * * *

(f) * * *

(1) * * *

(xiii) *Amount per ton.* Monensin, 90 to 110 grams, plus 5 grams virginiamycin.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. maxima,* and *E. mivati;* for increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* For broiler or fryer chickens; do not feed to laying chickens; feed continously as sole ration; withdraw 5 days before slaughter; as monensin sodium provided by No. 000986 in § 510.600 of this chapter; virginiamycin provided by No. 000007 in § 510.600 of this chapter.

2. In § 558.635 by adding new paragraph (f)(3) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(f) * * *

(3) Virginiamycin may be used in accordance with the provisions of this section in the combinations provided, as follows:

(i) Monensin sodium in accordance with § 558.355.

(ii) [Reserved]

Effective date. This amendment is effective September 22, 1981.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 15, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-27485 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Alpha-Methylfentanyl in Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Acting Administrator of the Drug Enforcement Administration to place the substance, alpha-methylfentanyl, into Schedule I of the Controlled Substances Act (CSA). As a result of this rule, the possession, distribution, manufacture, importation and exportation of alpha-methylfentanyl is subject to the control mechanisms and criminal sanctions of Schedule I.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on Wednesday, August 5, 1981 (46 FR 39848-9), proposing that alpha-methylfentanyl be placed into Schedule I of the Controlled Substances Act (21 U.S.C. 801 *et seq.*). This notice further stated that the Acting Administrator found that the abuse of alpha-methylfentanyl has had a substantial and detrimental effect on the public health and safety. Consequently, the Acting Administrator gave notice that the effective data of control of alpha-methylfentanyl would be the date of publication of the final order placing it into Schedule I unless evidence showing why this should not be was presented. All interested parties were given until September 4, 1981 to submit their comments or objections in writing regarding this proposal.

Several comments concerning the proposed placement of alpha-methylfentanyl into Schedule I were submitted by Ohio Medical Products. Their comments refer to the compound 3-methylfentanyl or 1-(2-phenylethyl)-3-methyl-4-(N-propanoyl-anilino) piperidine which was not proposed for control and not alpha-methylfentanyl as proposed in the August 5, 1981 notice (46 FR 39848-9). However, a number of the comments are applicable to either compound and therefore will be addressed in this final order.

Ohio Medical Products suggests the use of another nomenclature system to describe the chemical structure of alpha-methylfentanyl. In addition to that used in the proposal, the name 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine will be included in the listing to describe alphamethylfentanyl. The question of which isomers are to be covered by the proposed regulation was raised by Ohio Medical Products. Alpha-methylfentanyl was proposed for control in Schedule I (21 CFR 1308.11(b)) which includes the listed opiates and their isomers with the term isomers defined in 21 CFR 1308.02 as the optical isomer. Ohio Medical Products further questions why alpha-methylfentanyl was singled out for Schedule I control from the many fentanyl derivatives which they suggest are likely to have high abuse potential. As described in the **Federal Register** proposal to place alpha-methylfentanyl in Schedule I, this substance has been identified in illicit drug traffic, reported by Narcotic Treatment Program Directors as abused by heroin addicts and associated with numerous drug overdose deaths. Specific studies conducted under National Institute on Drug Abuse contracts have shown alpha-methylfentanyl to be morphine-like and capable of producing physical dependence. Although other fentanyl derivatives may have pharmacological properties which are commensurate with a potential for abuse, they have not been specifically studied to determine whether they have an abuse potential nor is there any evidence that the other derivatives are being abused.

Ohio Medical Products recommends that alpha-methylfentanyl be placed into Schedule II of the CSA until research has shown that it has no potential for clinical use. 21 U.S.C. 812(b)(2) lists the criteria for placing a substance into Schedule II and they are as follows:

(A) The drug or other substance has a high potential for abuse;

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and

(C) Abuse of the drug or other substance may lead to severe psychological or physical dependence.

Alpha-methylfentanyl satisfies criteria (A) and (C) but it has no accepted medical use in treatment in the United States. The criteria for Schedule I are:

(A) The drug or other substance has a high potential for abuse;

(B) The drug or other substance has no currently accepted medical use in treatment in the United States; and

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Using the criteria for inclusion of a substance in any of the five schedules of the CSA, as outlined in 21 U.S.C. 812(b), alpha-methylfentanyl best fits the criteria for Schedule I control. Should there be an approved medical use for alpha-methylfentanyl in the future as determined by the Food and Drug Administration, administrative mechanisms exist for the transfer of this substance to the appropriate schedule.

Ohio Medical Products maintains that placing alpha-methylfentanyl into Schedule I will create an unnecessary regulatory burden on researchers. The main regulatory requirement imposed on a researcher using a Schedule I substance is that he or she is registered with DEA for handling that particular substance. The requirements attendant to a Schedule I research registration are not particularly onerous when one considers the serious health consequences associated with the abuse of alpha-methylfentanyl. Further, it is highly probable that a researcher who would want to work with alpha-methylfentanyl would be registered with DEA for other substances used for comparison. An amended registration to include alpha-methylfentanyl imposes only a minimal regulatory burden on these individuals.

A letter was received from Mr. Ronald D. Veteto who objects to the control of alpha-methylfentanyl and drugs in general. This comment questions the general philosophy of drug control but provides no valid reason, given the requirements of the Controlled Substances Act, for not placing alpha-methylfentanyl under control.

No other comments or objections were received, nor were there any requests for a hearing. Based upon the investigations and review conducted by the Drug Enforcement administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health, Department of Health and Human Services, received in accordance with 21 U.S.C. 811(b), the Acting Administrator of the Drug Enforcement Administration, pursuant to 21 U.S.C 811(a) and 811(b), finds that:

(1) Based on information now available, alpha-methylfentanyl has a high potential for abuse;

(2) Alpha-methylfentanyl has no currently accepted medical use in treatment in the United States; and

(3) Alpha-methylfentanyl lacks accepted safety for use under medical supervision.

The above findings are consistent with the placement of alpha-methylfentanyl into Schedule I of the Controlled Substances Act. The Acting Administrator further finds that alpha-methylfentanyl is an opiate as defined in 21 U.S.C. 802(17) since it has addiction-forming and addition-sustaining liabilities similar to those of morphine. Consequently, alpha-methylfentanyl is a narcotic since the definition of narcotic, as stated in 21 U.S.C. 802(16) (A) includes: "* * * opium, coca leaves and opiates."

Neither of the comments received gave any reason for not making the control of alpha-methylfentanyl in Schedule I effective when this final order is published. All regulations applicable to Schedule I narcotic substances are effective on (date of publication) with respect to alpha-methylfentanyl. However, individuals registered with the Drug Enforcement Administration in accordance with Parts 1301 or 1311 of Title 21 of the Code of Federal Regulations and who currently possess alpha-methylfentanyl may continue to do so pending submission of an amended registration application no later then October 22, 1981.

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports alpha-methylfentanyl, or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Alpha-methylfentanyl must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of alpha-methylfentanyl must comply with the requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* All persons required to obtain quotas for alpha-methylfentanyl shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Every registrant required to keep records and who possesses any quantity of alpha-methylfentanyl shall take an inventory pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of this substance on hand.

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on alpha-methylfentanyl.

7. *Reports.* All registrants required to submit reports pursuant to §§ 1304.37–1304.41 of Title 21 of the Code of Federal Regulations shall do so regarding alpha-methylfentanyl.

8. *Order Forms.* All registrants involved in the distribution of alpha-methylfentanyl shall comply with the order form requirements of §1305.01–1305.16 of Title 21 of the Code of Federal Regulations.

9. *Importation and Exportation.* All importation and exportation of alpha-methylfentanyl shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* The Acting Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to alpha-methylfentanyl not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful.

Pursuant to 5 U.S.C. 605(b), the Acting Administrator certifies that the placement of alpha-methylfentanyl into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the initial control of a substance with no legitimate medical use or manufacture in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12991 (46 FR 13193).

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Under the authority vested in the Attorney General by section 201(a) of the Act (21 U.S.C. 811(a)) and delegated to the Acting Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby orders that:

1. 21 CFR 1308.11(b)(6)–(45) is redesignated as 21 CFR 1308.11(b)(7)–(46); and

2. A new § 1308.11(b)(6) is added to read as follows: § 1308.11 Schedule I.

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(6) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)	9814

* * * * *

Dated: September 16, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-27553 Filed 9-21-81; 8:45 am]

BILLING CODE 4410-09-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commissions Operations and Relocation Procedures; Determination of Eligibility, Hearing and Administrative Review (Appeals)

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: This final rulemaking establishes Subpart L, Determination of Eligibility, Hearing and Administrative Review (Appeals) to 25 CFR Part 700. Subpart L provides procedures for administrative hearings and appeals concerning individual eligibility or benefits for any person who has filed a claim for benefits or for granting of a life estate lease.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002. Telephone No.: (602) 779–3311, Extension 1376, FTS: 261–1376.

SUPPLEMENTARY INFORMATION: The principal author is William G. Lavell, General Counsel, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, Arizona 86002, Telephone No.: (602) 779–3311, Extension 1376, FTS: 261–1376.

A proposed rule on this subject was published in the **Federal Register** on March 9, 1981 (46 FR 15720–15743) as a part of a recodification revision and addition to Part 700—Commission Operations and Relocation Procedures. Comments were invited for a period ending July 7, 1981. Comments were timely received from a number of different sources concerning the overall recodification, revision and addition some of which commented on the appeals procedures. It has been decided to publish this subpart at this time prior to the adoption of the remainder of the overall recodification, revision and addition to Part 700 in order to establish the hearings and appeals procedures and contract for services of one or more hearing officers as provided in the new procedures.

Review of Comments

Comments upon which action was taken were as follows.

(1) Section 700.311(i) was changed to read as follows: Applicants may be represented by a licensed attorney or by an advocate licensed to practice in any Hopi or Navajo Tribal Court.

(2) Section 700.303(c) was amended by changing the hearing request period from 14 to 30 days to make it consistent with § 700.307.

(3) The reference in § 700.311(h) was amended to read § 700.313(a)(5).

(4) Section 700.303(b) was amended to extend the period for requesting an explanatory conference from 14 to 30 days.

(5) Section 700.311 (b) and (c) were amended to extend the notice of the hearing from 14 to 30 days.

Comments Upon Which No Action Was Taken Were as Follows

(1) *Section 700.301.* It was suggested that a definition of presiding officer be included to include either a commissioner, a non-partial judge or a relocatee. No action was taken since presiding officers are covered by § 700.309.

(2) *Section 700.303.* (a) It was suggested that applicants always be informed of a determination in person. The reason for this proposed change was that relocatees receive their mail general delivery and do not pick it up on a regular basis. Even after mail is picked up, many relocatees must wait for someone who can read it to them. Also, the amount to which the individual is entitled should not be included in the notice since benefits are not determined until the individual relocatee is turned over to Realty. No action was taken since it was determined that current notice requirements are adequate under the circumstances.

(c) It was suggested that applicant's counsel should be paid for by the Relocation Commission. No action was taken since the Commission did not deem it appropriate to pay for counsel.

(d) It was suggested that this section should be eliminated completely. No action was taken since it was determined that this provision is essential to the regulations.

(3) *Section 700.311(d).* It was suggested that the old age or handicap of the applicant be included as a reason for extending the hearing date. This change is not necessary since under the existing regulations the presiding officer could use this reason for extension.

(4) *Section 300.315.* It was suggested that the time for submitting post-hearing briefs should be extended from 14 to 30 days. No action was taken since counsel for the appellant handles filing of post-hearing briefs and 14 days was determined to be adequate.

(5) *Section 700.321.* It was suggested that appeals brought pursuant to this subsection should be made to the presiding officer, not the Commissioners. No action was taken since these appeals often involve policy determinations which must be made by the Commission.

(6) *Section 700.323.* It was suggested that relocatees should have up to one year after the date of relocation to request a hearing under the regulations. No action was taken since this section provided a "grandfather right" which expired 180 days after April 15, 1980. The time within which an appeal must be filed has been governed by 25 CFR 700.8(c) since then. (25 CFR 700.307 in this recodification). It was determined that 30 days is adequate.

(7) *Sections 700.311 and .313.* It was suggested that both tribes, or at least the tribe to whom the land has been partitioned, should be given notice of all hearings and be allowed to participate therein, receive copies of notices and other documents, and examine witnesses. No action was taken. An aggrieved person is defined in § 700.301(b). The Commission determined that the tribes would not be appropriate for inclusion in that definition.

As of the day of publication of this final rule the Office of Management and Budget has not approved the information collection requirements, if any, related to these regulations. Notice of such approval will be published at a later date.

Accordingly, Part 700 of Title 25 of the Code of Federal Regulations is amended in its final form by adding regulations designated as Subpart L—Determination of Eligibility, Hearing and Administrative Review (Appeals).

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PART 700—COMMISSION OPERATIONS AND RELOCATION PROCEDURES

Subpart L—Determination of Eligibility, Hearing and Administrative Review (Appeals)

Authority: Pub. L. 93–531, (25 U.S.C. 640–d).

§ 700.301 Definitions.

(a) Certifying Officer, as used in this subpart, means that member of the Commission staff who certifies

eligibility for relocation assistance benefits and/or for life estate leases.

(b) An aggrieved person, as used in this subpart, means a person who has been denied any relocation assistance benefits for which he/she has applied.

§ 700.303 Initial Commission determinations.

(a) Initial Commission Determination concerning individual eligibility or benefits for any person who has filed a claim for benefits or for granting of Life Estate Leases shall be made by the Certifying Officer. The Determination shall include the amount, if any, to which the individual is entitled, and shall state the reasons therefor. Such Determination shall be communicated to the Applicant by certified letter or in person by Commission staff. A record of personal notice shall be maintained by the Commission.

(b) An explanatory conference shall be scheduled by and with the Certifying Officer, if requested by the Applicant or the Certifying Officer, within thirty days of the communication of the Determination; the right to a hearing is not dependent on the holding of such a conference. The Certifying Officer may reverse, amend, or leave standing the Initial Determination as a result of such conference: *Provided, however,* his/her decision shall be communicated in writing to the Applicant by certified letter or in person by Commission staff within five days after such conference.

(c) Communications of Determinations to the Applicant as provided for in 700.303(a) shall include an explanation of the availability of grievance procedures, including hearings and representation of counsel and the fact that a hearing must be requested within 30 (thirty) days of receipt of the determination.

(d) No decision which at the time of its rendition is subject to appeal to the Commission shall be considered final agency action subject to judicial review under 5 U.S.C. 704, *Provided* that in the event of a whole or partial denial, no benefits shall be paid unless and until said Determination is reversed or modified as provided for herein.

§ 700.305 Availability of hearings.

All persons aggrieved by Initial Commission Determinations concerning eligibility, benefits, or for granting of Life Estate Leases may have a Hearing to present evidence and argument concerning the Determination. Parties seeking such relief from the Commission's Initial Determination shall be known as "Applicants." When multiple Applicants claim interest in one benefit, determination, or question of eligibility, their hearings may be consolidated at the Presiding Officer's discretion.

§ 700.307 Request for hearings.

Hearing requests shall be made in person or by letter and must be received by the Commission within thirty days after the notice letter was received, the personal notice was given, or if an explanatory conference is held, after the decision of the Certifying Officer. The request shall also contain a specific statement indicating the basis for the request.

§ 700.309 Presiding officers.

The hearing shall be presided over and conducted by one of the Commissioners appointed pursuant to 25 U.S.C. 640d–11(b) or by such other person as the Commission may designate.

§ 700.311 Hearing scheduling and documents.

(a) Hearings shall be held as scheduled by the Presiding Officer.

(b) Notice of the hearing shall be communicated in writing to the applicant at least thirty days prior to the hearing and shall include the time, date, place, and nature of the hearing.

(c) Written notice of the Applicant's objections, if any, to the time, date, or place fixed for the hearing must be filed with the Presiding Officer at least five days before the date set for the hearing. Such notice of objections shall state the reasons therefor and suggested alternatives. Discretion as to any changes in the date, time, or place of the hearing lies entirely with the Presiding Officer, *Provided,* that the 30 (thirty) day notice period as provided in paragraph (b) above shall be observed unless waived in writing by the applicant or his representative.

(d) All hearings shall be held within thirty days after Commission receipt of the applicant's request therefor unless this limit is extended by the Presiding Officer.

(e) All hearings shall be conducted at the Commission office in Flagstaff, Arizona, unless otherwise designated by the Presiding Officer.

(f) All time periods in this regulation include Saturdays, Sundays and holidays. If any time period would end on a Saturday, Sunday, or holiday, it will be extended to the next consecutive day which is not a Saturday, Sunday, or holiday.

(g) A copy of each document filed in a proceeding under this section must be filed with the Commission and may be served by the filing party by mail on any other party or parties in the case. In all cases where a party is represented by an attorney or representative, such attorney or representative will be recognized as fully controlling the case on behalf of his client, and service of any document relating to the proceeding shall be made upon such attorney or representative, which service shall suffice as if made upon the Applicant. Where a party is represented by more than one attorney or representative, service upon one of the attorneys or representatives shall be sufficient.

(h) Hearings will be recorded verbatim and transcripts thereof shall be made when requested by any parties; costs of transcripts shall be borne by the requesting parties unless waived according to § 700.313(a)(5).

(i) Applicants may be represented by a licensed attorney or by an advocate licensed to practice in any Hopi or Navajo Tribal Court.

§ 700.313 Evidence and procedure.

(a) At the hearing and taking of evidence the Applicant shall have an opportunity to:

(1) Submit and have considered facts, witnesses, arguments, offers of settlement, or proposals of adjustment;

(2) Be represented by a lawyer or other representative as provided herein;

(3) Have produced Commission evidence relative to the determination, *Provided,* that the scope of pre-hearing discovery of evidence shall be limited to relevant matters as determined by the Presiding Officer;

(4) Examine and cross-examine witnesses;

(5) Receive a transcript of the hearing on request and upon payment of appropriate Commission fees as published by the Commission, which may be waived in cases of indigency.

(b) The Presiding Officer is empowered to:

(1) Administer oaths and affirmations;

(2) Rule on offers of proof;

(3) Receive relevant evidence;

(4) Take depositions or have depositions taken when the ends of justice would be served and to permit other pre-hearing discovery within his/her discretion;

(5) Regulate the course and conduct of the hearings; including pre-hearing procedures;

(6) Hold pre-hearing or post-hearing conferences for the settlement or simplification of the issues;

(7) Dispose of procedural requests or similar matters;

(8) Make a record of the proceedings;

(9) Hold the record open for submission of evidence no longer than

fourteen days after completion of the hearings;

(10) Make or recommend a decision in the case based upon evidence, testimony, and argument presented;

(11) Enforce the provisions of 5 USCA section 557(d) in the event of a violation thereof;

(12) Issue subpoenas authorized by law; and

(13) Extend any time period of this subpart upon his/her own motion or upon motion of the applicant, for good cause shown.

§ 700.315 Post hearing briefs.

Applicants may submit post-hearing briefs or written comments to the Presiding Officer within fourteen days after conclusion of the Hearings. In the event of multiple applicants or parties to a hearing, such briefs shall be served on all such applicants by the applicant submitting the brief.

§ 700.317 Presiding officer decisions.

(a) The Presiding Officer shall submit to the Commission a written decision based upon the evidence and argument presented, within *sixty* days, not including any period the record is held open, if any, after conclusion of the hearing, unless otherwise extended by the Presiding Officer.

(b) Copies of the Presiding Officer's decision shall be mailed to the Applicant. The Applicant may submit briefs or other written argument to the Commission within fourteen days of the date the Presiding Officer's determination was mailed to the Applicant.

§ 700.319 Final agency action.

Within 30 (thirty) days after receipt of the Presiding Officer's decision, the Commission shall affirm or reverse the decision and issue its final agency action upon the application in writing; *Provided*, that in the event one Commissioner sits as the Presiding Officer, the final agency action shall be determined by the remaining Commissioners and such other person as they may designate who did not so preside over the hearing. Such decisions shall be communicated in writing to the Applicant by certified mail.

§ 700.321 Direct Appeal to Commissioners.

Commission determinations concerning issues other than individual eligibility or benefits which do not require a hearing may be appealed directly to the Commission in writing. The Commission decision will constitute final agency action on such issues.

Roger Lewis,

Commissioner, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 81-27221 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-HB-M

DEPARTMENT OF LABOR

Employment and Training Administration

29 CFR Part 56

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 224

Work Incentive Program for AFDC Recipients Under Title IV of the Social Security Act

Note.—This document originally appeared as the Part IV in the **Federal Register** for Sept. 21, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday, Friday schedule assigned to the Department of Labor.

AGENCIES: Employment and Training Administration, Labor; and Office of Human Development Services, Health and Human Services Department.

ACTION: Interim final rules.

SUMMARY: The Secretary of Labor and the Secretary of Health and Human Services jointly revise the regulations for the Work Incentive Program. These rules are made necessary by the Omnibus Budget Reconciliation Act of 1981.

EFFECTIVE DATE: October 1, 1981. However, consideration will be given to comments received before November 20, 1981. These will be carefully considered, and any changes to these regulations or our reasons for not accepting recommendations for change will be published in the **Federal Register.**

ADDRESSES: Mail or deliver comments to the Executive Director, Work Incentive Program, Patrick Henry Building, Room 5102, 601 D Street, NW., Washington, D.C. 20213. Agencies and organizations are requested to submit comments in duplicate. Beginning October 5, 1981, these comments shall be available for public review at the above address, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Easley, (202) 376-7030.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the WIN program is to utilize all available employment and social services, including those authorized under provisions of other laws, so that individuals receiving Aid to Families with Dependent Children (AFDC) under Part A of Title IV of the Social Security Act will be furnished incentives, opportunities, and necessary services for (1) the employment of such individuals in the regular economy, (2) the training of such individuals for work in the regular economy, and (3) the participation of such individuals in WIN public service employment, thus assisting the families of such individuals to achieve economic independence and to assume useful roles in their communities.

History of the WIN Program

Enactment of amendments to Title IV of the Social Security Act in 1967, authorizing the Work Incentive Program (Pub. L. 90-248), was a recognition of the need for an employment program directed to the special needs of public assistance recipients and their families. Earlier measures funded under the Manpower Development and Training Act of 1962 (Pub. L. 87-415) and the Economic Opportunity Act of 1964 (Pub. L. 88-452) provided some assistance to this group but did not address the multiple problems of the public assistance population, and had limited impact.

Under the 1967 legislation, registration in WIN was by referral of persons deemed by public welfare agencies to be appropriate for participation. An employment plan tailored to the specific needs and goals of each individual was developed jointly by the registrant and WIN staff. Emphasis tended to be on the provision of classroom training and other aids to employability development, rather than on immediate job placement.

Amendments to Title IV of the Social Security Act (Act) in December 1971 (Pub. L. 92-223) changed the administration and focus of the program. WIN registration was mandated for all persons at least 16 years of age receiving or applying for AFDC, unless legally exempt. Exemptions were provided under Section 402(a)(19)(A) of the Act (42 U.S.C. 602(a)(19)(A)) for full-time students, the ill and disabled, persons too remote from WIN program sites, and certain persons needed to care for a family member in the home.

The emphasis was shifted from employability development to employment at the earliest point

feasible in the registrant's WIN experience. Changes in regulations which became effective in 1976 further increased the emphasis on direct placement into unsubsidized employment. See, e.g., 41 FR 47700 (October 29, 1976).

This shift in emphasis toward immediate employment continued with the enactment of the Social Security Disability Amendments of 1980 (Pub. L. 96–265). These amendments provided authority for requiring employment search activities of WIN registrants, including applicants, and for providing supportive services to applicants as well as recipients, when needed to support employment-related activities. They exempt AFDC applicants and recipients who work not less than 30 hours a week from WIN registration.

The 1980 Amendments also authorize the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) to define sanction periods in cases where registrants fail or refuse to participate in WIN without good cause.

Employment-related social services are arranged for or provided by separate administrative unit (SAU) staff who participate with WIN sponsor staff to develop individual employability plans with registrants. These services can include child care, remedial medical services, home management, counseling, family planning, and transportation to needed services.

Administration

The WIN program is administered by the National Coordination Committee (NCC) at the national level (which is composed of the Assistant Secretary for Employment and Training, DOL and the Assistant Secretary for Human Development Services, DHHS) and the Regional Coordination Committees (RCCs) (which are composed of Regional Administrators from both Departments) in each Region. The RCC reviews and approves State WIN plans and oversees the operational and administrative procedures of State programs.

At the State level, the State WIN sponsor and the State welfare agency develop an annual State WIN plan for operation of the WIN program in the State and submit it to the appropriate Regional Coordination Committee for approval. The State WIN sponsor and State welfare agency also administer and supervise the administration of the WIN program in each State.

At the local level, there are three units involved—the income maintenance unit (IMU), the WIN sponsor, and the separate administrative unit (SAU). The IMU determines AFDC eligibility and exemption status and refers suitable persons to the WIN program. The WIN sponsor (usually part of the State job service) registers referred individuals and provides work and training services. The WIN sponsor and the SAU appraise registrants and develop an employability plan for each registrant found suitable for participation in the program. The SAU furnishes social services to enable registrants to engage in employment, training, and employment-related activities.

Summary of the 1981 Amendments

Sections 2311, 2313, and 2314 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) include changes as follows, affecting the WIN exemption criteria, and incorporate the provisions of previous court decisions relating to unemployed parents:

(1) The 1981 amendments lower the age of an exempt child who is attending school full-time to under 18; or at State option to under 19 if the student is expected to complete a course of study in a secondary, or vocational or technical school which is at the equivalent level of a secondary school before reaching age 19;

(2) The amendments limit the exemption of a parent or other caretaker relative of a child under six to an individual who personally cares for the child on a continuous basis with only brief and infrequent absences from the child;

(3) The amendments exempt a parent or other caretaker of a child who is deprived of parental support or care, if another adult relative in the home is registered;

(4) The amendments introduce the concept of "principal earner" defined as the parent who has earned more income in the 24 months preceding application under this part;

(5) The amendments exempt a parent of a child who is deprived of parental support by the unemployment of the principal earner if the other parent who is the principal earner is registered;

(6) The amendments require WIN certification of unemployed parents who are principal earners within 30 days after receipt of aid; and

(7) The amendments provide that aid will be denied to an entire family if an unemployed parent who is the principal earner fails to register or fails or refuses to participate without good cause.

Discussion of Proposed Amendments to WIN Regulations Implementing Sections 2311, 2313, and 2314 of the 1981 Omnibus Budget Reconciliation Act (Pub. L. 97–35)

1. Exemption of Full-Time Students Under Age 18

a. *The Statute: Sections 402(a)(19)(A)(i) and 406(a)(2) of the Social Security Act.* Prior to the 1981 amendments, a child under 21 merely had to be attending school full-time in order to be exempt from WIN registration. With these changes, the exemption is limited to children under 18 who are full-time students in elementary, secondary, vocational or technical schools, and does not extend to college level schools or programs. The amendments also provide States with option of including within the exemption, a child under age 19 who is a full-time student in a secondary or technical program and is reasonably expected to complete it before reaching age 19.

b. *The Rule: 29 CFR 56.20(b)(2) and 45 CFR 224.20(b)(2) of the regulations.* This regulation incorporates both the changes in the WIN exemption itself and the changes that were made by the amendments to the age limit of a dependent child. In the past, States were allowed to define a child to include individuals under age 21 who were students; the amendment to Section 406(a)(2) limits the definition of a dependent child to an individual who is under age 18 or at State option, to an individual who is under age 19 and is a full-time student in a secondary or technical school and is reasonably expected to complete the school program before reaching age 19.

The resulting exemption from WIN thus applies to full-time students who are under 18, or to those who are under 19 and are expected to complete a course of study in a secondary or technical school before reaching age 19.

2. Exemption of Parent or Caretaker of Child Under Six

a. *The Statute: Section 402(a)(19)(A)(v) of the Social Security Act.* In the past, a mother or other relative of a child under six could be exempt from WIN registration if he or she were caring for the child. The amended law extends the exemption to a parent, rather than principally to a mother. The law further restricts this exemption to a parent who is *personally* providing the care and has only brief and infrequent absences from the child.

b. *The Rule: 29 CFR 56.20(b)(8) and 45 CFR 224.20(b)(8) of the regulations.* The

exemption from WIN registration applies to a parent or other caretaker relative of a child under six only if the parent or other caretaker personally provides full-time care of the child on a continuous basis.

3. Exemption of Parent or Caretaker of Child Who is Deprived of Parental Support

a. *The Statute: Section 402(9)(19)(A)(vi) of the Social Security Act.* The Social Security Act, prior to the 1981 amendments, contained language that exempted mothers from WIN registration more readily than it exempted fathers. In 1979 the Supreme Court ruled against such practices in *Califano* v. *Westcott*, 431 U.S. 322 1979. This amended law allows either parent to be exempt from WIN registration if the child in the family is deprived of parental support or care from the other parent, but only if another adult relative in the home is not exempt from WIN.

b. *The Rule: 29 CFR 56.20(b)(9) and 45 CFR 224.20(b)(9) of the regulations.* The regulations provide for the exemption of a parent or other caretaker of a child who is deprived of a parent's care or support because of the parent's death, absence, or mental or physical incapacity, if there is another adult relative in the home who registered for WIN and has not failed or refused to participate without good cause.

4. Exemption of Other Parent of a Child With an Unemployed Principal Earner

a. *The Statute: Sections 402(a)(19)(A)(viii), 407(a), and 407(d)(4) of the Social Security Act.* Since 1967, the Social Security Act allowed States to provide assistance to families in which the father was unemployed. However, in 1979 the Supreme Court held in *Califano* v. *Westcott* that the restriction to fathers was discriminatory. The 1981 amendments bring the Social Security Act into compliance with the Supreme Court finding and permit either parent to qualify as an unemployed parent if he or she is the principal earner. The principal earner is defined in section 407(d)(4) as whichever parent earned the greater amount of income in the 24-month period preceding an application for and based on the unemployment of a parent. Thus, the exemption in section 402(a)(19)(A)(viii) of the Act applies to a parent when the other parent, who is the principal earner, is not exempt from WIN registration.

b. *The Rule: 29 CFR 56.20(b)(11) and 45 CFR 224.20(b)(11) of the regulations.* The new regulation specifically exempts a parent who is not the principal earner if the parent who is the principal earner is unemployed and is not exempt under one of the other exemption criteria of this section.

5. Required Certification of Unemployed Principal Earners

a. *The Statute: Section 407(b)(2)(A) of the Social Security Act.* An amendment was made to the Act to require that unemployed parents who are principal earners be certified to the Secretary of Labor within 30 days after receipt of aid. In the past, this requirement applied only to fathers.

b. *The Rule: 29 CFR 56.22(b) and 45 CFR 224.22(b) of the regulations.* The term "father" is simply changed to "parents who are principal earners." This regulation now requires that unemployed parents who are principal earners be appraised by WIN staff within 2 weeks of the determination of their eligibility so that they will be certified within 30 days of receipt of AFDC benefits.

6. Denial of Aid to Families Whose Unemployed Parent Refuses to Participate

a. *The Statute: Section 402(a)(19)(F)(ii) of the Social Security Act.* This provision clarifies that if an unemployed principal earner fails or refuses to participate in WIN or to accept employment without good cause, the entire family will be ineligible for AFDC benefits.

b. *The Rule: 29 CFR 56.51(a)(2) and 45 CFR 224.51(a)(2) of the regulations.* This regulation provides that certain AFDC sanctions shall apply to individuals who fail or refuse without good cause to participate in WIN.

Justification for Dispensing With Prior Notice of Proposed Rulemaking and 30-Day Implementation Period

These regulations implement sections 2311, 2313, and 2314 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), signed on August 13, 1981. The Congress expressly required in Section 2321 that these amendments take effect on October 1, 1981, except if State law prevents implementation, in which case the Secretary of Health and Human Services may allow postponement of implementation according to certain guidelines found in Section 2321 of this Act.

Thus it is not practical to issue a *Notice of Proposed Rulemaking* (NPRM) for these implementing regulations and still meet the required effective date of the amendments. Therefore, we find that good cause exists for dispensing with an NPRM. However, the comments of the public are requested on these Interim Final Rules.

We will carefully consider all comments. We will then publish in the **Federal Register** a final regulation within 90 days of the close of the public comment period. The final regulation will include a summary of the comments, together with any revision of these regulations resulting from comments or our reasons for not accepting suggested revisions.

We are dispensing with the 30-day delay in effective date after publication for the same reason. The October 1 effective date for the amendments implemented by these regulations has been found by both agencies to be good cause for these regulations to become effective on October 1, 1981.

Regulatory Flexibility Act

The Secretaries certify in accordance with Section 603 of the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 603) that this regulation as proposed will not have a significant economic impact on a substantial number of small entities including small business, small organizational units and small governmental jurisdictions. Consequently, an initial regulatory flexibility analysis has not been prepared for this rule. Most of the provisions of the proposed rule impose conditions for Federal financial participation on State agencies and do not impact on small entities.

Executive Order 12291

The Secretaries have also determined in accordance with Executive Order 12291 that the proposed rule does not constitute a major rule requiring the preparation of a regulatory impact analysis. The regulation is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment and innovation.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, all Departments are required to submit to the Office of Management and Budget for review and approval any reporting or recordkeeping requirements inherent in a proposed and final rule. This proposed rule does not increase the Federal paperwork burden for WIN State agencies.

(Catalog of Federal Domestic Assistance Program No. 13.646, "Work Incentive Program (WIN)")

(402(a)(7), 402(a)(19), 406(a)(2), 407(a), 407(d)(4), 430–444, 1102 of the Social Security Act, as amended. 49 Stat. 647 (42 U.S.C. 602(a)(7), 602(a)(19), 606(a)(2), 607(a), 607(d)(4), 630–644, 1302))

Dated: September 2, 1981.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: September 3, 1981.

Richard S. Schweiker,

Secretary, Health and Human Services.

Dated: September 8, 1981.

Albert Angrisani,

Assistant Secretary.

Approved: September 10, 1981.

Raymond J. Donovan,

Secretary, Department of Labor.

For reasons set out in the preamble, Part 56 of Title 29 of the Code of Federal Regulations is amended as set forth below:

PART 56—WORK INCENTIVE PROGRAMS FOR AFDC RECIPIENTS UNDER TITLE IV OF THE SOCIAL SECURITY ACT

Subpart C—Requirements and Procedures for Registration, for Appraisal and Certification

1. In § 56.20, paragraphs (b)(2), (b)(8), and (b)(9) are revised and paragraph (b)(11) is added to read as follows:

§ 56.20 Registration requirements for AFDC applicants and recipients; State plan requirements.

* * * * *

(b) * * *

(2) A full-time student (as defined in State welfare regulations), aged 16 but under age 18 who is attending an elementary or secondary school, or a vocational or technical school that is equivalent to a secondary school; or a full-time student under age 19, if the State AFDC plan extends coverage to children under age 19, who is attending a secondary school or a program in a vocational or technical school that is equivalent to a secondary school and is reasonably expected to complete such school or program before reaching age 19;

* * * * *

(8) A parent or other caretaker relative of a child under age 6 who personally provides full-time care of the child with only very brief and infrequent absences from the child;

(9) A parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative in the home is registered and has not failed or refused to participate in the program or to accept employment without good cause;

* * * * *

(10) [Reserved]

* * * * *

(11) The parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner as defined in 45 CFR 233.100(a)) is not exempt under one of the other preceding clauses of this section.

* * * * *

2. In § 56.22, paragraph (b) is revised to read as follows:

§ 56.22 Appraisal and certification.

* * * * *

(b) All unemployed parents who are principal earners as defined in 45 CFR 233.100(a) shall be appraised within 2 weeks of the determination of eligibility for AFDC benefits, and appraisal shall occur prior to certification. Certification shall be completed no later than 30 days from the receipt of AFDC benefits.

* * * * *

3. In § 56.51, paragraphs (a)(2) and (a)(3) are redesignated as paragraphs (a)(3) and (a)(4) and a new paragraph (a)(2) is added as follows:

§ 56.51 Sanctions.

* * * * *

(a) * * *

(2) If the individual is an unemployed parent who is the principal earner, (as defined in 45 CFR 233.100(a)), the State will deny assistance for all members of the family.

* * * * *

For reasons set out in the preamble, Part 224 of Title 45 of the Code of Federal Regulations is amended as set forth below:

PART 224—WORK INCENTIVE PROGRAMS FOR AFDC RECIPIENTS UNDER TITLE IV OF THE SOCIAL SECURITY ACT

Subpart C—Requirements and Procedures for Registration, for Appraisal and Certification

4. In § 224.20, paragraphs (b)(2), (b)(8), and (b)(9) are revised and paragraph (b)(11) is added to read as follows:

§ 224.20 Registration requirements for AFDC applicants and recipients; State plan requirements.

* * * * *

(b) * * *

(2) A full-time student (as defined in State welfare regulations), aged 16 but under age 18 who is attending an elementary or secondary school, or a vocational or technical school that is equivalent to a secondary school; or a full-time student under age 19, if the State AFDC plan extends coverage to children under age 19, who is attending a secondary school or a program in a vocational or technical school that is equivalent to a secondary school and is reasonably expected to complete such school or program before reaching age 19;

* * * * *

(8) A parent or other caretaker relative of a child under age 6 who personally provides full-time care of the child with only very brief and infrequent absences from the child;

(9) A parent or other caretaker of a child who is deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, if another adult relative in the home is registered and has not failed or refused to participate in the program or to accept employment without good cause;

* * * * *

(10) [Reserved]

* * * * *

(11) The parent of a child who is deprived of parental support or care by reason of the unemployment of a parent, if the other parent (who is the principal earner as defined in 45 CFR 233.100(a)) is not exempt under one of the other preceding clauses of this section.

* * * * *

5. In § 224.22, paragraph (b) is revised to read as follows:

§ 224.22 Appraisal and certification.

* * * * *

(b) All unemployed parents who are principal earners as defined in 45 CFR 233.100(a) shall be appraised within 2 weeks of the determination of eligibility for AFDC benefits, and appraisal shall occur prior to certification. Certification shall be completed no later than 30 days from the receipt of AFDC benefits.

* * * * *

6. In § 224.51, paragraphs (a)(2) and (a)(3) are redesignated as paragraphs (a)(3) and (a)(4) and a new paragraph (a)(2) is added as follows:

§ 224.51 Sanctions.

* * * * *

(a) * * *

(2) If the individual is an unemployed parent who is the principal earner (as defined in 45 CFR 233.100(a)), the State

will deny assistance for all members of the family.

* * * * *

[FR Doc. 81-27358 Filed 9-18-81; 8:45 am]
BILLING CODE 4510-30-M and 4110-92-M

Occupational Safety and Health Administration

29 CFR Part 1952

Certification of Completion of Developmental Steps for Virgin Islands State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Virgin Islands on or before August 31, 1976, submitted documentation attesting to the completion of all structural, developmental aspects of its approved State occupational safety and health plan. After extensive review and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the 18(e) evaluation phase of State plan development. This certification attests only to the fact that the Virgin Islands now has in place those structural components necessary for an effective program. It does not render judgment, either positively or negatively, on the adequacy of the State's actual performance. In addition, although State plan commitments on staffing and resources have been met, these initial commitments may not be interpreted as meeting the ultimate requirements of the Occupational Safety and Health Act of 1970 for "sufficient staff" as redefined by the U.S. Court of Appeals decision in *AFL–CIO* vs *Marshall*, 570 F. 2d 1030 (1978).

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Dorothy J. Johnson, Office of State Programs, Occupational Safety and Health Administration, Room N–3619, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act") (29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the act and regulations, plan approval is essentially a two-step procedure. A State must first submit its plan for initial determination under section 18(b) of the Act. If the Assistant Secretary, after reviewing the State's submission, determines that the plan satisfies or will satisfy the criteria set forth in section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with concurrent enforcement by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. As provided at 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the **Federal Register** (see 29 CFR 1902.34 and .35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine, on the basis of actual operations, whether the plan adequately protects the safety and health of the State's workers. Certification does not render judgment as to the adequacy of State performance.

Final approval of the plan under section 18(e) of the Act and 29 CFR Part 1902, may not be granted until at least three years after initial approval and until at least one year after completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the Act's criteria are being applied, a decision of final approval may be granted.

On September 11, 1973, a notice was published in the **Federal Register** (38 FR 24896) of initial approval of the developmental Virgin Islands' plan and the adoption of Subpart S of Part 1952 containing the decision, a description of the plan, and the developmental schedule. During the three year period ending August 31, 1976, the Commissioner of Labor, Government of Virgin Islands, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Virgin Islands developmental steps.

Completion of Developmental Steps

All developmental steps specified in the September 11, 1973 notice of initial approval have been completed as follows:

(a) In accordance with § 1952.253(b), amendments to the Virgin Islands' legislation were passed March 11 and February 26, 1974. (40 FR 11352, March 11, 1975.)

(b) In accordance with § 1952.253(c), the Virgin Islands' occupational safety and health standards were promulgated on March 21, 1974. (40 FR 11352, March 11, 1975.)

(c) In accordance with § 1952.253(a), the Virgin Islands has completed the staff training as described therein. (41 FR 43406, October 1, 1976.)

(d) The Virgin Islands has developed and implemented a manual Management Information System. (41 FR 43406, October 1, 1976.)

(e) In accordance with the requirements of § 1952.10, the Virgin Islands' safety and health posters for private and public employees were approved by the Assistant Secretary on September 28, 1976. (41 FR 43406, October 1, 1976.)

(f) The Virgin Islands has developed and implemented an effective Public Information Program. (42 FR 40195, August 9, 1977.)

(g) The Virgin Islands amended its legislation to (i) delete reference to "political subdivisions" and substitute the term "department," and (ii) to add new sections (1) "Variations, Tolerances and Exemptions," and (2) "Disclosure of Confidential Trade Secrets." (42 FR 40195, August 9, 1977.)

(h) The Virgin Islands' Field Operations Manual (FOM) modeled after the Federal FOM has been developed by the State, and approved by the Assistant Secretary. (42 FR 40195, August 9, 1977.)

(i) The Virgin Islands has developed

(1) An acceptable organizational chart;

(2) Job descriptions of V.I. occupational safety and health

employees which meet the necessary requirements;

(3) A procedure to correct a problem of understaffing in the V.I. in terms of plan commitment;

(4) A procedure for rating and ranking candidates; and

(5) An Affirmative Action Plan for Equal Employment Opportunity acceptable to the Office of Personnel Management. (44 FR 76783, December 28, 1979.)

(j) In accordance with § 1952.253(e), the Virgin Islands implemented the public employee program in July 1975. (45 FR 56054, August 22, 1980.)

(k) In accordance with § 1952.253(c), the Virgin Islands adopted the Administrative Regulations on March 11, 1974. (45 FR 56054, August 22, 1980.)

(l) In accordance with § 1952.253(d), the safety enforcement program in the Virgin Islands was operational in April 1974. (46 FR 41046, August 14, 1981.)

This certification covers all occupational safety issues covered under the Federal program. Occupational health and environmental control issues (Subpart G of 29 CFR Part 1910 and Subpart D of 29 CFR 1926) and Safety and Health for Maritime Employment found in 29 CFR 1910.13–.16 and 29 CFR Parts 1915–1918 (longshoring, ship repairing, ship building and ship breaking) are excluded from coverage under the plan. This certification also covers the State's program covering State and local government employees.

Location of the Plan and Its Supplements for Inspection and Copying

Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Room N–3619, Washington, D.C. 20210;

Office of the Regional Administrator, U.S. Department of Labor-OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036;

Department of Labor, Occupational Safety and Health Division, Building No. 1, 2nd Floor, Government Complex, Room 207, Lagoon Street, Frederiksted, St. Croix, Virgin Islands 00840.

Effect of Certification

The Virgin Islands' plan is certified effective September 22, 1981 as having completed all developmental steps on or before August 31, 1976. This certification attests to structural completion, but does not render judgment on adequacy of performance. The Virgin Islands' occupational safety program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation is a fully effective program of enforcement. The Assistant Secretary will then determine whether Federal authority should be withdrawn with respect to issues covered by the plan pursuant to section 18(e) of the Act.

Level of Enforcement

In accordance with 29 CFR 1902.35, Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 622 and 666) and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during the evaluation period. However, OSHA's concurrent Federal enforcement authority will be exercised on a limited basis. Federal responsibilities will be retained as to the following issues: Occupational Health and Environmental Control (Subpart G of 29 CFR Part 1910 and Subpart D of 29 CFR Part 1926) and Safety and Health for Maritime Employment (29 CFR 1910.13–.16 and 29 CFR Parts 1915–1918). See 29 CFR 1902.2(c) which authorizes these limitations on the scope of the plan. Other exercise of Federal enforcement authority will continue generally to be limited at this time to response to 11(c) discrimination complaints as appropriate, enforcement of new Federal standards if necessary and response to emergency or unusual situations. The level of Federal enforcement may from time to time be reconsidered.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with this certification, 29 CFR 1952.254 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding paragraph (m) as follows:

§ 1952.254 Completion of developmental steps and certification.

* * * * *

(m) In accordance with § 1902.34 of this chapter, the Virgin Islands' occupational safety and health plan was certified effective September 22, 1981 as having completed all developmental steps specified in the plan as approved on September 11, 1973, on or before August 31, 1976.

This certification attests to structural completion, but does not render judgment on adequacy of performance.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 14th day of September 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81–27574 Filed 9–21–81; 8:45 am]

BILLING CODE 4510–26–M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: The Central Intelligence Agency (CIA) revises its regulations relating to the composition of the Information Review Committee (IRC) by adding direct representation from the Office of Inspector General. This revision will create an additional member of the IRC. In addition the revision corrects a title anomaly in the Directorate of National Foreign Assessment.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Bacon, Information and Privacy Coordinator; phone: 351–7486.

In consideration of the foregoing, Part 1900, Chapter XIX of Title 32, Code of Federal Regulations, is amended by revising § 1900.51(a) as follows:

§ 1900.51 Appeal to CIA Information Review Committee.

(a) Establishment of Committee. The Central Intelligence Agency Information Review Committee is hereby established, pursuant to the Freedom of Information Act and section 5–404(c) of Executive Order 12065. The Committee shall be composed of the Deputy Director for Administration, the Deputy Director for Operations, the Deputy Director for Science and Technology, the Deputy Director for National Foreign Assessment, and the Inspector General. The Director of Central Intelligence shall appoint a chairman. The Committee, by majority vote, may delegate to one or more of its members the authority to act on any appeal or appeals under this section, and may authorize the chairman to delegate such authority. The chairman may call upon appropriate

components to participate when special equities or expertise are involved.

* * * * *

(Section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), Executive Order 12065 (3 CFR, 1978 comp., p. 190), and the Freedom of Information Act, as amended (5 U.S.C. 552))

Harry E. Fitzwater,

Deputy Director for Administration.

[FR Doc. 81-27557 Filed 9-21-81; 8:45 am]

BILLING CODE 6310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 1929-8]

Arizona State Implementation Plan; Maintenance-of-Pay Provision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA announces its approval of a State Implementation Plan (SIP) revision which the Arizona Department of Health Services has submitted pursuant to the requirements of the Clean Air Act. The revision provides that any source using a supplemental or intermittent (or other dispersion dependent) control system to meet requirements of an order under section 113 (d) or 119 of the Clean Air Act may not temporarily reduce the pay of an employee as a result of such a control system. This type of maintenance-of-pay provision is required by section 110(a)(6) of the Clean Air Act. This action will be effective 60 days from the date of this notice unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective November 23, 1981.

ADDRESSES: Written comments should be addressed to William Wick of EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105. Copies of the revisions are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street SW., Room 2404, Washington, D.C. 20460

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

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007.

FOR FURTHER INFORMATION CONTACT:

William Wick at EPA Region 9 (address above) or call (415) 556-8008.

SUPPLEMENTARY INFORMATION: On July 13, 1981, the State of Arizona submitted as a SIP revision a state statute enacted to provide that a worker's pay would not be temporarily reduced when a source used a dispersion-dependent control system to meet the requirements of an order under section 113(d) or section 119 of the Clean Air Act. The state statute satisfies the requirement for such a provision contained in section 110(a)(6) of the Clean Air Act. The statute submitted is § 36-1718 of the Arizona Revised Statutes, and is reproduced in its entirety as follows:

"§ 36-1718. Limitations

Nothing in this chapter shall be construed so as to:

1. Grant any jurisdiction or authority with respect to air contamination or pollution existing solely within commercial and industrial plants, works, or shops owned by or under control of the person causing the air contamination or pollution.

2. Alter or in any other way affect the relations between employers and employees with respect to or concerning any condition of air contamination or pollution, except that a person using a supplemental control system or intermittent control system for purposes of meeting the requirements of an order under section 113(d) or section 119 of the federal clean air act, as amended, may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system. As amended Laws 1979, Ch. 81, Sec. 2, eff. Apr. 18, 1979."

EPA is today approving this revision to the Arizona SIP. This is being done without prior proposal because the change is a requirement of the Clean Air Act and is not controversial. The public should be advised that this approval action will be effective 60 days from the date of this **Federal Register** notice November 23, 1981. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action approves the State action. It imposes no new 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 serves merely to approve a 1979 statute designed to bring the State of Arizona into compliance with section 110(a)(6) of the Act.

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

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions 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 from 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.

Note.—Incorporation by reference of the State Implementation Plan of the State of Arizona was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 113, 119, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7413, 7419 and 7601(a))

Dated: September 11, 1981.

John W. Hernandez,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart D—Arizona

Section 52.120, paragraph (c) is amended by adding subparagraph (49) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c)* * *

* * * * *

(49) The following amendments to the plan were submitted on July 13, 1981 by the Governor's designee.

(i) Arizona Revised Statute Sec. 36-1718.

[FR Doc. 81-27522 Filed 9-21-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100 and 3110

[Circular No. 2491]

Oil and Gas Leasing; Increase in Filing Fees Accompanying Noncompetitive Oil and Gas Lease Applications

Correction

In FR Doc. 81-26824, appearing on page 45887, in the issue of Tuesday, September 15, 1981, make the following change:

On page 45887, in the first column, the fifth line from the bottom now reading "and, therefore, noncompetitive oil and" should be changed to read "and, therefore, no noncompetitive oil and".

1505-01-M

43 CFR Part 9260

[Circular No. 2462]

Public Lands and Resources; Law Enforcement—Criminal; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors contained in the final regulations published in the Federal Register (45 FR 31276) on May 12, 1980, that placed all law enforcement provisions applying to public lands and resources in one subpart of Title 43 of the Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT: George B. Hollis at (202) 343-8735.

43 CFR Part 9260 as published in Volume 45 of the Federal Register (45 FR 31276) is corrected as follows:

PART 9260—LAW ENFORCEMENT — CRIMINAL

1. Section 9268.3(e), in the first sentence of paragraph (2)(i), the words "Title 18 of the United States Code" shall be corrected to read "this Act."

2. Section 9268.3(e), in the first sentence of paragraph (2)(ii), the words "issued under Title 16 of the United States Code" shall be corrected to read, "issued under section 460 *l*-6e of Title 16 of the United States Code".

3. Section 9268.3(e), in paragraph (2)(iv) shall be corrected by inserting the words "section 1246(i) of" between the words "under" and "Title".

Dated: September 4, 1981.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

[FR Doc. 81-27465 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6138]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Smith, National Flood Insurance Program, (202) 387-0220 or EDS Toll Free Line 800-638-6620 for Continental U.S. (except Maryland); 800-638-6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800-492-6605 for Maryland, 500 C Street Southwest, Donohoe Building, Room 509, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires, at section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.)

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. Accordingly, Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*

The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433

42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094
45 FR 12421
45 FR 26051
45 FR 31318
45 FR 34120
45 FR 49570
45 FR 52385
46 FR 13695
46 FR 20176
46 FR 26776
46 FR 46811

(b) *Flood Insurance Rate Maps (FIRM's)*

The following is a cumulative list of withdrawals pursuant to this Part:
40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
45 FR 12421
45 FR 49570
46 FR 20176
46 FR 46811

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name, number	County	Hazard ID date	Rescission date	Reason
California	City of Exeter, 060404 E	Tulare	8-20-76	Aug. 24, 1981	2
Colorado	Town of Kennesburg, 080251 E	Weld	9-19-75	do	2
Idaho	City of Filer, 160167 E	Twin Falls	5-2-75	do	1
Illinois	Village of Malta, 170187	DeKalb	6-7-74	do	1
Kansas	City of Rose Hill, 200454 E	Butler	8-8-75	do	2
Do	City of Sedgwick, 200134B R	Harvey	5-26-81	May 27, 1981	6
Michigan	Berlin Township, 260192	St. Clair	8-6-76	do	1
Do	Brockway Township, 260505	do	10-24-75	do	1
Do	Village of Chelsea, 260599A	Washtenaw	11-9-79	do	1
Do	Village of Columbiaville, 260433	Lapeer	7-11-75	do	1
Do	Village of Dexter, 260600	Washtenaw	10-17-75	do	1
Do	Gilford Township, 260525	Tuscola	9-19-75	do	1
Do	Village of Lawton, 260533	Van Buren	6-3-77	do	1
Do	Village of North Branch, 260338	Lapeer	9-12-75	Aug. 24, 1981	1
Do	Village of Pinckney, 260704	Livingston	8-19-77	do	1
Do	Sharon Township, 260538	Washtenaw	10-15-76	do	1
Do	City of Yale, 260329	St. Clair	4-11-75	do	1
Minnesota	City of Richfield, 270180 E	Hennepin	10-17-75	do	2
Do	City of Spring Lake Park, 270016 E	Anoka	5-10-74	do	2
North Dakota	City of Edinburg, 380165 E	Walsh	1-17-75	do	1
Do	City of Kenmare, 380234 E	Ward	5-2-75	do	10
Ohio	Village of Seven Mile, 390045 E	Butler	5-21-76	do	2
Do	Village of Union, 390704 E	Montgomery	6-8-79	do	2
Pennsylvania	Borough of Hartleton, 422528	Union	12-27-74	do	1
Do	Borough of Mansfield, 420823A E	Tioga	5-14-76	do	2
Texas	City of Paducah, 480771A	Cottle	6-27-75	do	2
Virginia	Town of Floyd, 510271 E	Floyd	3-25-77	do	1
Arizona	City of Lake Havasu, 040116 E	Mohave	8-26-80	Sept. 1, 1981	2
Arkansas	City of Beebe, 050233 E	White	11-07-75	do	2
Do	City of East Camden, 050164 E	Ouachita	10-15-76	do	2
California	Town of Hillsborough, 060320 E	San Mateo	4-02-76	do	2
Do	City of Huron, 060049 E	Fresno	11-01-75	do	2
Do	City of Mendota, 060051 E	do	12-19-75	do	2
Florida	City of Dade, 120231 E	Pasco	1-16-74	do	10
Idaho	City of Hayden Lake, 160062 E	Kootenai	5-14-76	do	2
Louisiana	Town of Maringouin, 220065 E	Iberville Parish	2-20-76	do	2
Michigan	Township of Bangor, 260210	Van Buren	1-09-76	do	1
Do	Township of Big Prairie, 260485	Newaygo	1-04-77	do	1
Do	Village of Breedsville, 260530	Van Buren	9-26-75	do	1
Do	Township of Clyde, 260195	St. Clair	6-04-76	do	1
Do	Township of Columbia, 260531	Van Buren	9-5-75	do	1
Do	Township of Croton, 260466	Newaygo	3-10-78	do	1
Do	Village of Custer, 260454	Mason	9-26-75	do	1
Do	City of Hartford, 260532	Van Buren	7-11-75	do	1
Do	Township of Hinton, 260137	Mecosta	7-23-76	do	1
Do	Township of Howard, 260365	Cass	3-18-77	do	1
Do	Village of Lakeview, 260463	Montcalm	10-01-76	do	1
Do	Township of Marathon, 260609	Lapeer	10-24-75	do	1
Do	Village of Mecosta, 260584	Mecosta	10-10-75	do	1
Do	Township of Rolland, 260422	Isabella	3-04-77	do	1
Do	Township of Tuscola, 260527	Tuscola	3-04-77	do	1
Do	Township of White Oak, 260417	Ingham	10-10-75	do	1
Oklahoma	City of Eufaula, 400376 E	McIntosh	9-17-76-	do	2
Do	Town of Gore, 400195 E	Sequoyah	9-6-74	do	2
Do	Town of Panama, 400092 E	LeFlore	5-28-76	do	2
Do	Town of Seiling, 400058 E	Dewey	6-11-76	do	2
Do	Town of Talihina, 400094 E	LeFlore	4-22-77	do	2
Do	City of Tullahassee, 400218 E	Wagoner	7-16-76	do	2
Texas	Town of Bayview, 480102 E	Cameron	4-25-75	do	2
Do	Town of Combes, 480104 E	Cameron	7-25-78	do	2
Washington	Town of Mabton, 530221 E	Yakima	5-14-76	do	2

Key to Symbols:
E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
R The Community is participating in the Regular Program.
1 The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2 FIA determined the Community would not be inundated by a flood having a one-percent change of occurrence in any given year.
3 The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
4 The Community lacked land-use authority over the special flood hazard area.
5 The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.
6 The Flood Insurance Rate Map ws rescinded because of inaccurate flood elevations contained on the map.
7 The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.

8 The T&E or H&E Map was rescinded.
9 A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.
10 Miscellaneous.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 8, 1981.

John E. Dickey,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 81-27564 Filed 9-21-81; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 46, No. 183
Tuesday, September 22, 1981

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1098

[Docket Nos. AO-251-A23, AO-123-A48, and AO-184-A43]

Milk in Tennessee Valley, Louisville-Lexington-Evansville and Nashville, Tenn., Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Correction

In FR Doc. 81-26570, appearing at page 45354 in the issue of Friday, September 11, 1981, make the following changes:

1. On page 45355, third column, in the fifth line of § 1098.13(b), the number "245" should read, "25".
2. On page 45356, second column, in the thirteenth line of § 1098.52(a) insert the word "thereof" between the words "fraction" and "that".
3. On page 45356, third column, in the second line of § 1098.13(b)(6), the last word, now reading "for", should read "from".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-1893-7]

Standards of Performance for New Stationary Sources Sodium Carbonate Plants

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed standards of performance, final action.

SUMMARY: Standards of performance required by Section III of the Clean Air Act for natural process sodium carbonate plants were proposed on October 15, 1980 (45 FR 68616). After a thorough review and analysis of the comments received during the public comment period, the Administrator has concluded that the proposed standards are not needed. The proposed standards are therefore being withdrawn. However, after reviewing the comments, the Administrator has concluded that the technical basis for the proposed standards is still valid and may be used to support either State Implementation Plans under Section III of the Clean Air Act or determinations of best available control technology under Section 165.

EFFECTIVE DATE: September 22, 1981

ADDRESSES: *Background Information Document:* The Background Information Document (BID), Volume I for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Sodium Carbonate Industry, Background Information: Proposed Standards of Performance, Volume I," EPA-450/3-80-029a.

Docket: A docket, number A-79-54, containing both a detailed discussion of the comments received during the public comment period and information developed for the proposed rulemaking is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at EPA's Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

The Proposed Standards

The proposed standards of performance for the sodium carbonate industry would have limited emissions of particulate matter from new, modified, and reconstructed calciners, dryers (including predryers), and bleachers in natural process sodium carbonate plants. Specifically, the proposed standards would have limited particulate emissions from calciners to 0.11 kg per Mg of dry calciner feed (0.22 lb/ton); from bleachers to 0.03 kg per Mg of dry bleacher feed (0.06 lb/ton); and from dryers to 0.045 kg per Mg of dry product (0.09 lb/ton). The proposed standards also would have limited visible emissions from calciners and bleachers to 5 percent opacity and from all dryers to 10 percent opacity.

Rationale for Withdrawing the Proposed Standards

The decision to withdraw the proposed standards is based on the Agency's findings that growth in the industry through 1985 will be limited to the State of Wyoming; that Wyoming's State Implementation Plan imposes emission limits on new and expanding plants more stringent than the NSPS; and that the costs and administrative burden associated with the NSPS would not be justified. These findings indicate both that the industry lacks mobility and that promulgation of NSPS for the industry would achieve little or no emission reduction. In making this decision, the Administrator has concluded that withdrawal of the proposed standards is consistent with the purposes of Section III of the Clean Air Act.

The decision is based on current industry growth patterns and emission rates, which EPA plans to review periodically. If new information shows that the industry intends to construct plants outside of Wyoming or that emission rates from the industry have increased, then EPA will reconsider the merits of promulgating national standards of performance. In this event, EPA would repropose these standards of performance before considering a final rulemaking. The applicability date in this instance would be the reproposal date.

Normally, the Agency would not withdraw a proposal on the basis that some States impose emission limits more stringent than the NSPS. On the contrary, one of the purposes of the Clean Air Act Amendments of 1977 was to establish uniform Federal regulation through NSPS to prevent States from setting lenient standards in order to attract new industry. In this case, however, the industry is highly localized, the emissions are well regulated by State authorities, and there is no opportunity for industry to locate elsewhere to avoid controls. Under these circumstances, the Administrator believes that promulgation of NSPS for the sodium carbonate industry at this time would be redundant, would not be

cost effective, and would not serve the purposes of the Clean Air Act.

Summary of Public Comments

Twelve comment letters were received during the public comment period following proposal. None supported the need for the proposed rulemaking. Five of the comment letters challenged the need for the standards, while others addressed technical aspects of the standards. After reviewing all the comments, the Administrator has concluded that the technical basis for the standard is still valid. However, since comments addressing the technical validity of the NSPS were not pertinent to the decision to withdraw the standards, they are not discussed here. A summary and analysis of these comments appears in the docket.

One of the comments challenging the need for the standards suggested that the NSPS is unnecessary in light of the limited growth projections for natural sodium carbonate production in the next decade. Three comments questioned the need for national standards because the regulated emission sources could be located in only two States, Wyoming and California. Five comments asserted that the proposed standards would not reduce emissions from new facilities because both Wyoming and California have strict State regulations and because Wyoming requires new sodium carbonate plants to use the best particulate control technology that is available. Four comments noted that sodium carbonate plants in Wyoming and California are located far from human habitation and questioned why NSPS were proposed for this industry when its emissions will not have significant adverse effects on public health or welfare. Finally, two comments maintained that the standards cannot be justified considering costs in relation to emission reductions. These comments are discussed in the following paragraphs.

Analysis of Comments

EPA's analysis indicates that the industry's growth rate will be limited (see page 8–10 of the BID). The U.S. Bureau of Mines currently estimates that the growth rate will be 3 percent per year through 1985 and 2.6 percent per year through 2000. Based on these projections, EPA estimates an increase in production capacity of 1.4 million Mg/year (1.5 million GPY) by 1985. This increase in capacity could occur through the expansion of existing facilities or the construction of new facilities. The increase in capacity is assumed to occur through the addition of three new production trains.

EPA's analysis projects that growth in the sodium carbonate industry through 1985 will be restricted to Wyoming and California (pages 8–1, and 8–21, BID). This is because major deposits of ore used to produce sodium carbonate are found in Green River, Wyoming, and Searles Lake, California. However, industry growth most likely will be centered in Wyoming because sodium carbonate is more easily recovered and processed from Wyoming's ore deposits and because Wyoming has more than 160 times the ore reserves of California.

EPA's calculations demonstrate that the proposed NSPS would achieve little or no emissions reduction. At proposal, EPA estimated that the NSPS would reduce particulate emissions by at most 385 Mg/year (421 TPY) by 1985. At the same time the Agency pointed out that these estimates, which are based on process weight formula contained in State Implementation Plans for California and Wyoming, may not accurately predict emissions from new plants. Since proposal, Wyoming's Department of Environmental Quality has informed the Agency that emissions from new and expanding sodium carbonate plants are regulated more stringently through the revised Wyoming Air Quality Standards and Regulations than emissions would be by the proposed NSPS. Wyoming's Department of Environmental Quality has further commented that the stringency of its State regulations make the NSPS meaningless, and recommended that the NSPS Not be promulgated.

EPA recognizes that new sodium carbonate plants would be located in areas of Wyoming and California that are remote from human habitation (BID, page 8–21). However, this remoteness does not guarantee that particulate matter from new plants will not endanger the public health and welfare. The Agency believes that the existence of a National Ambient Air Quality Standard for particulate matter establishes that all sources of particulate matter contribute to the endangerment of the public health and welfare. This position has been upheld by the courts in *National Asphalt Pavement Association* v. *Train* (539 F 2d at 783–84 D.C. Cir. 1976). Based on an examination of the emission rates from uncontrolled sodium carbonate plants and the expected rate of growth in the number of these plants, the Administrator has determined that this source category contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare (44 FR 49222, Tuesday, August 21, 1979). EPA has no new information that warrants a change to this finding.

EPA's calculations indicate that the benefits of the proposed standards do not justify the additional administrative costs of an NSPS. This is because compliance with the NSPS in this instance would achieve little or no particulate emission reduction.

Miscellaneous

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source performance standard promulgated under section 111(b) of the Act. Although this standard is not being promulgated, an economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not a major regulation because it withdraws, rather than promulgates, a proposed regulation.

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

Section 605 of the Regulatory Flexibility Act (RFA) requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entities. This action will not have a significant impact on any small entities.

Dated: September 11, 1981.

John W. Hernandez,

Acting Administrator.

[FR Doc. 81-28572 Filed 9-21-81; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60-1, 60-2, 60-4, 60-30, 60-250, 60-741

Government Contractors' Affirmative Action Requirements; Correction

AGENCY: Office of Federal Contract Compliance Programs (OFCCP), Labor.

ACTION: Proposed rule, correction notice.

SUMMARY: On August 25, 1981, the Department of Labor published a proposed rule (46 FR 42968) which, if adopted, will revise a number of the sections contained in the regulations published on December 30, 1980 (45 FR 86216), and certain other of the regulations in 41 CFR Chapter 60 which were not amended by the December 30 rule. This notice makes corrections to the August 25, 1981, proposal.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: James W. Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-9426.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1980, the Department of Labor published a final rule revising the regulations at 41 CFR Chapter 60 concerning nondiscrimination and affirmative action requirements for Government contractors. The final rule would have amended, consolidated, and integrated certain regulatory provisions pertaining to the three programs administered by OFCCP: Executive Order 11246, as amended, section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and section 503 of the Rehabilitation Act of 1973, as amended. The rule was to take effect on January 29, 1981, but was delayed to permit the Department to review the regulation fully. With publication of the proposal on August 25, 1981, the effective date of the final rule has been further delayed until action has been taken on the proposed rule.

Need for Correction

Editorial review of the August 25, 1981, publication reveals several errors in the preamble and text. This document corrects those errors.

Signed at Washington, D.C., this 14th day of September 1981.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards Administration.

Ellen M. Shong,

Director, Office of Federal Contract Compliance Programs.

Preamble

1. 46 FR 42968, column 1, SUMMARY section, line 12, add ", as amended," following "1974".

2. 46 FR 42968, column 2, SUPPLEMENTARY INFORMATION section, line 12, add ", as amended," following "1974".

3. 46 FR 42969, column 2, numbered paragraph 1, line 11, add ", as amended," following "1974".

4. 46 FR 42969, column 3, line 7, "§ 60.1.1" is corrected to "§ 60-1.1".

5. 46 FR 42970, column 2, numbered paragraph 4, line 15, add "in excess of" following "is".

6. 46 FR 42970, column 3, fourth full paragraph, line 7, add "to" between "and" and "file".

7. 46 FR 42971, column 1, second full paragraph, line 7, "for" is corrected to "from".

8. 46 FR 42971, column 2, numbered paragraph 9., line 21, "under represented" is corrected to "underrepresented".

9. 46 FR 42971, column 3, numbered paragraph 13., "§ 60-1.1.23" is corrected to "§ 60-1.23".

10. 46 FR 42971, column 3, numbered paragraph 13., line 11, "Decmeber" is corrected to "December".

11. 46 FR 42972, column 2, tenth full paragraph, line 4, "500" is corrected to "499".

12. 46 FR 42973, column 3, numbered paragraph 32., line 23, remove "," following "review".

13. 46 FR 42973, column 3, numbered paragraph 33., line 19, insert "a" following "of".

14. 46 FR 42974, column 1, numbered paragraph 35., line 4, "(A)" is corrected to "(a)".

15. 46 FR 42974, column 2, numbered paragraph 36., line 18, "and" is corrected to "any".

16. 46 FR 42974, column 2, numbered paragraph 38., line 11, remove "would".

17. 46 FR 42975, column 3, numbered paragraph 4., line 2, "five year" is corrected to "five-year."

18. 46 FR 42976, column 1, numbered paragraph 47., line 6, "then" is corrected to "than".

19. 46 FR 42976, column 1, numbered paragraph 48., line 2, "this section" is corrected to "the current section".

20. 46 FR 42977, column 3, numbered paragraph 64., line 3, "rules" is corrected to "Rules".

21. 46 FR 42978, column 1, line 1, add "an" following "that".

22. 46 FR 42979, column 2, lines 4 and 5, remove "specified plan areas".

23. 46 FR 42979, column 3, line 9, add "," following "(at 45 FR 86216)".

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

24. 46 FR 42980, column 1, § 60-1.31., "accomodations" is corrected to "accommodations".

25. 46 FR 42980, column 2, line 24, add ", as amended." following "1974"; and "When" is corrected to "Where".

26. 46 FR 42980, column 2, line 26, add "," following "503".

27. 46 FR 42980, column 3, § 60-1.3, line 1, is corrected to read "Act, as used in this chapter means".

28. 46 FR 42981, column 2, line 26, add "purchase or" following "the".

29. 46 FR 42981, column 3, line 21, "Subpart B" is corrected to "Subpart E".

30. 46 FR 42982, column 1, line 30, "relating to" is corrected to "for the purchase or use of".

31. 46 FR 42982, column 1, line 33, "Subpart B" is corrected to "Subpart E".

32. 46 FR 42982, column 1, line 35, add ", section 402 and section 503." following "Order".

33. 46 FR 42982, column 3, numbered paragraph (1), line 5, add "to" following "action"; line 8, add "." following "origin"; line 9, "such" is corrected to "Such".

34. 46 FR 42982, column 3, numbered paragraph (2), line 5, "considerations" is corrected to "consideration".

35. 46 FR 42983, column 3, numbered paragraph (4), line 7, add "or under" following "on".

36. 46 FR 42984, column 2, § 1.7(b), line 2, add "." following "contractors".

37. 46 FR 42985, column 2, § 60-1.21(d), line 10, substitute "," for the ";" following "men".

38. 46 FR 42986, column 1, § 60-1.25, line 4, add ":" following "when"; line 8, change "," to ";" following "employment"; line 12, change "," to ";" following "individual".

39. 46 FR 42987, column 2, line 42, add "special" following "qualified".

40. 46 FR 42988, column 1, "Subpart E" add "Compliance" preceding "Review" on line 2.

41. 46 FR 42988, column 3, § 60-1.63(c), line 3, add "section 402 or section 503" following "Order,".

42. 46 FR 42989, column 3, line 17, replace "2.13 or 41 CFR 60-2.14" with

"2.13, 41 CFR 60–2.14, 41 CFR 60–250.5, or 41 CFR 60–741.5".

43. 46 FR 42989, column 3, line 18, "tke" is corrected to "take".

44. 46 FR 42990, column 2, lines 13 and 14, remove "the regulations implementing".

45. 46 FR 42991, column 3, § 60–1.71, line 3, "proide" is corrected to "provide".

PART 60–2—AFFIRMATIVE ACTION PROGRAMS

46. 46 FR 42992, column 2, line 7, remove sentence beginning "Section 60–2.2".

47. 46 FR 42992, column 2, § 60–2.3(b), line 16, "long term" is replaced with "five-year".

48. 46 FR 42992, column 3, line 1, "§§ 60–2.3(c)(3) and (4)" is corrected to "§§ 60–2.3(c)(4) and (5)".

49. 46 FR 42993, column 1, line 2, "concilate" is corrected to "conciliate"; line 10, "2.3(c)(4)" is corrected to 2.3(c)(5)"; line 11, "OFFCCP" is corrected to "OFCCP"; line 18, "five-Year" is corrected to "five-year".

50. 46 FR 42993, column 2, § 60–2.5(b), line 5, "§ 60–2.3(d)" is corrected to "§ 60–2.4(d)".

51. 46 FR 42995, column 3, § 60–2.20, line 4, "meet" is corrected to "meets".

PART 60–4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

52. 46 FR 42996, column 2, 5th line from bottom, remove "," following "contract"; insert "," following "subcontract".

53. 46 FR 42997, column 1, § 60–4.3(a), line 3, add "," following "in"; lines 20, 24 and 25, remove "in excess of $10,000".

54. 46 FR 42997, column 1, Specifications section, line 7, insert "or more" following "20,000".

55. 46 FR 42998, column 1, numbered paragraph 8, line 7, "contractor" is corrected to "Contractor".

56. 46 FR 42998, column 2, numbered paragraph 11, line 2, "Subcontract" is corrected to "subcontract".

57. 46 FR 42999, column 2, § 60–4.7, line 10, "Part 60–10" is corrected to "Part 60–40;".

58. 46 FR 42999, column 2, § 60–4.8, line 11, "41 CFR 60–1.25(c)(1)" is corrected to "41 CFR 60–1.64(c)(1)".

59. 46 FR 42999, column 3, line 8, "1.29" is corrected to "1.68".

PART 60–30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246, SECTION 402, AND SECTION 503

60. 46 FR 43000, column 1, line 25, remove "60–30.38 Preliminary administrative enforcement proceedings".

PART 60–250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

61. In Part 60–250 (as corrected above), wherever "disabled veteran" appears, "special disabled veteran" is substituted; wherever "qualified disabled veteran" appears, "qualified special disabled veteran" is substituted except in the following sections: 60–250.5(g)(8); 60–250.5(h)(5); and 60.250.5(i)(7) and (8).

62. 46 FR 43006, column 3, in the "Authority" section add, "as amended by Pub. L. 96–466, 94 Stat. 2171 (October 17, 1980)" following "U.S.C. 2012)".

63. 46 FR 43008, column 2, § 60–250.4(a), line 16, "long term" is replaced by "five-year".

64. 46 FR 43008, column 2, § 60–250.4(c), line 7, add "." following "investigated" and remove "or a preaward compliance review is being conducted".

65. 46 FR 43008, column 3, line 10, remove "," following "Act".

66. 46 FR 43009, column 1, numbered paragraph (3), line 12, add "," following "status"; line 19, remove "and" following "accommodations".

67. 46 FR 43009, column 2, line 15, remove "," following "veterans".

68. 46 FR 43011, column 1, § 60–250.23(c), line 5, add ":" following "information".

69. 46 FR 43012, column 1, in Appendix A, line 2, "Section" is corrected to "section".

PART 60–741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

70. 46 FR 43013, column 2, § 60–741.4(a), line 16, "long term" is replaced by "five-year".

71. 46 FR 43013, column 3, line 7, add "." following "investigated" and remove "or a preaward compliance review is being conducted."

72. 46 FR 43017, column 3, "Chapters 60–60 through 60–100" is replaced with "Chapters 60–60 through 60–249; 60–251 through 60–740; 60–742 through the end of Chapter 60".

[FR Doc. 81–27573 Filed 9–21–81; 8:45 am]
BILLING CODE 4510–27–M

Notices

Federal Register
Vol. 46, No. 183
Tuesday, September 22, 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

Agricultural Stabilization and Conservation Service

National Program Development Group; Meeting

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of meeting.

SUMMARY: The Agricultural Conservation Program (ACP) National Program Development Group will meet to consider recommendations from State and County ACP development groups with respect to the operational features of the program. Also, comments and suggestions will be received from the public concerning procedures to govern the various conservation and environmental programs administered by the Agricultural Stablization and Conservation Service (ASCS).

DATES: Meeting date: November 19, 1981.

ADDRESSES: Meeting location: Room 4960, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D. C.

FOR FURTHER INFORMATION CONTACT: Chief, Conservation Programs Branch, Conservation and Environmental Protection Division, ASCS, U.S. Department of Agriculture, Room 3608, South Building, Washington D. C., 20013, (202) 447-7333.

SUPPLEMENTARY INFORMATION: The Agricultural Conservation Program (ACP) National Program Development Group will hold a meeting to consider recommendations from States and county ACP development groups with respect to the operational features of the program. The meeting is scheduled to be held from 9:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 3:00 p.m. on November 19, 1981 in Room 4960, South Building, U.S. Department of Agriculture, Washington, D. C. Meeting sessions will be open to the public. The agenda will include consideration of State and county development group recommendations for changes in the administrative procedures and policy guidelines and evaluations of program effectiveness and operational arrangement of the ACP. Also an opportunity for the public to present comments on the various conservation and environmental programs. The Agricultural Conservation Program (ACP) will be discussed from 9:00 a.m. to 12:00 p.m. The Emergency Conservation Program (ECP), Forestry Incentives Program (FIP), the Water Bank Program (WBP), and the Rural Clean Water Program (RCWP) will be discussed from 1:00 p.m. to 3:00 p.m. The meeting may also include discussion of current procedures, criteria, and guidelines relevant to the implementation of these programs.

Because of the limitations of space available, persons desiring to attend the meeting should call Mr. John R. Henry (202) 447-7333 to reserve a seat.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

September 15, 1981.

[FR Doc. 81-27505 Filed 9-21-81; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Brazos Electric Power Coop.; Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Draft Environmental Impact Statement (DEIS) in connection with the proposed construction of a 30.6 km (19 mi) 345 kV transmission line and associated facilities by the Brazos Electric Power Cooperative (Brazos) that would connect the Texas Power & Light Company's Elm Mott Substation in McLennan County, Texas, with the proposd Whitney Substation in Bosque County, Texas. It is anticipated that Brazos will request REA to provide financing assistance for construction of the facilities.

Alternatives considered in the DEIS are no action, alternative voltages, upgading of existing facilities, alternative sources, energy conservation, and alternative routes and construction methods.

The preferred alternative, which is construction of the 345 kV transmission line, would cross over 0.72 km (0.45 mi) of floodplain and 0.09 km (0.06 mi) of wetlands. One tower, with a base of 0.01 ha (0.02 acre), may be located in the floodplain. REA has tentatively concluded that there is no practicable alternative to crossing these areas. Further information concerning this matter can be found in the DEIS.

Copies of the DEIS have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality regulations. Limited supplies of the DEIS are available upon request to: Mr. Frank Bennett, Director, Power Supply Division, Rural Electrification Administration, 14th St. and Independence Ave., SW., Washington, D.C. 20250.

The DEIS may also be examined during regular business hours at the following locations:

Rural Electrification Administration, USDA, 14th & Independence Ave., S.W., Room 0230, Washington, D.C. 20250

Brazos Electric Power Cooperative, 2404 La Salle Ave., Waco, Texas 7606

Hillsboro Public Library, 118 S. Waco St., Hillsboro, Texas 76645

Waco-McLennan Public Library, 1717 Austin St., Waco, Texas 76701

Persons, organizations, and agencies wishing to comment on the environmental aspects of the project should do so in writing by addressing their comments to Mr. Bennett of REA at the address given above. All comments received within the 45-day period will be considered in the formulation of final determinations regarding the Final Environmental Impact Statement (FEIS). Response to all substantive comments will be published in the FEIS.

Final REA action concerning the project, including any release of funds for construction, will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and compliance with the National Environmental Policy Act of 1969, and with other environmentally related statutes, regulations, Executive Orders, and the Secretary's Memorandum.

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

Dated at Washington, D.C., this 16th day of September 1981.

Harold V. Hunter,

Administrator, Rural Electrification Adminsitration.

[FR Doc. 81-27504 Filed 9-21-81; 8:45 am]

BILLING CODE 3410-15-M

Central Electric Power Coop., Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare an environmental impact statement in connection with approval by REA for Central Electric Power Cooperative (Central) of Jefferson City, Missouri, to reroute a 26.4 km (16.5 mile) section of the proposed Big Springs to Wright City 161 kV transmission line. The project is located in Montgomery and Warren Counties, Missouri.

Central has prepared a Borrower's Environmental Report (BER) concerning the proposed project. An Environmental Assessment (EA) was prepared by REA. Threatened and endangered species, important farmlands and forestlands, archeological and historical sites, wetlands and floodplains, and other potential impacts of the proposed project are adequately considered in the EA.

Based on REA's independent evaluation, the EA and a review of Central's BER and other documents, a Finding of No Significant Impact was reached in accordance with REA Bulletin 20–21:320–21.

Alternatives evaluated include no action (original proposed route) and the revised proposed route. The rerouted transmission line is the most viable alternative to deliver power to all existing and projected loads of Central within the project area.

Copies of the Finding of No Significant Impact, the EA and Central's BER may be reviewed at or obtained from the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250 or reviewed at the office of Central Electric Power Cooperative, P.O. Box 269, Highway 54 South, Jefferson City, Missouri 65102.

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

Dated at Washington, D.C., this 16th day of September, 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-27502 Filed 9-21-81; 8:45 am]

BILLING CODE 3410-15-M

KAMO Electric Co-op., Inc.; Finding of no Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact with respect to proposed financing assistance by REA for KAMO Electric Cooperative, Inc., (KAMO) of Vinita, Oklahoma, for the construction of 98 km (61 miles) of 161 kV transmission line, 38.6 km (24 miles) of 138 kV transmission line and 54.7 km (34 miles) of 69 kV transmission line. The proposed construction includes:

72.4 km (45-mile) Collinsville—Cleveland 161 kV line.
38.6 km (24-mile) Cleveland—Silver City 138 kV line.
25.7 km (16-mile) Claremore—Collinsville 161 kV line.
29 km (18-mile) Qualls Junction—Cookson 69 kV line.
Two 12.8 km (8-mile) Cleveland 69 kV tielines.

The above projects will be located in Cherokee, Creek, Osage, Pawnee, Rogers, Tulsa and Washington Counties, Oklahoma. Associated substation construction includes the proposed Barber, Cleveland and Keetonville Substations. KAMO has prepared a Borrower's Environmental Report (BER) concerning the proposed projects. An Environmental Assessment was prepared by REA.

Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands and floodplains and other potential impacts of the proposed projects are adequately considered in the BER and the Environmental Assessment. Some pole structures may be located in floodplains. Part of the Cleveland Substation and some pole structures may be located on prime farmland. The impact will be minimal.

Alternatives considered include no action, interconnection with another utility and alternate routes. The proposed transmission lines and associated substation additions and conversions are the most viable alternative to deliver power to existing and projected loads within the project area.

REA's independent evaluation of the proposed construction concludes that this project does not represent a major Federal action that will significantly affect the quality of the human environment. A Finding of No Significant Impact was reached in accordance with REA Bulletin 20–21:320–21, Part 1.

Copies of the Finding of No Significant Impact, the Environmental Assessment, and BER may be obtained from or reviewed at the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, or may be reviewed at the office of the KAMO Electric Cooperative, Inc., P.O. Box 577, Vinita, Oklahoma 74301.

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

Dated at Washington, D.C. this 16th day of September 1981.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc. 81-27500 Filed 9-21-81; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 81-9-111]

Fitness Determination of International Transfer Corp. d.b.a. Pro Air Service

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 81-9-111, order to show cause.

SUMMARY: The Board is proposing to find that International Transfer Corporation d.b.a. Pro Air Service is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 6, 1981, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 81-9-111.

FOR FURTHER INFORMATION CONTACT: Mr. J. Kevin Kennedy, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-9-111 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-9-111 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, September 17, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-27521 Filed 9-21-81; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 12:00 noon, on October 2, 1981, at the Federal Building, 701 C Street, Anchorage AK 99501. The purpose of this meeting is to plan programs for the upcoming year.

Persons desiring additional or planning a presentation to the Committee, should contact the Chairperson, Mr. Donald Peter, 108 Stewart Street, Anchorage, AK 99504, 907/272-9531, or the Northwestern Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington 98174, 216/442-1246.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 15, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-27506 Filed 9-21-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Molasses From France; 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 molasses from France. The review covers the period January 1, 1980 through December 31, 1980. There were no net subsidies on this review, the Department has preliminarily determined that no deposits of estimated countervailing duties should be collected on entries of this merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 22, 1981.

FOR FURTHER INFORMATION CONTACT: Josephine A. Russo or Joseph A. Black, Office of Compliance, Room 2803, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1168 or 377-1774).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 5, 1971, the Department of the Treasury published in the **Federal Register** a countervailing duty order, T.D. 71-118 (36 FR 8365), on molasses from France. This order became effective on June 19, 1971. The order stated that exports of this merchandise benefitted 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 into the United States 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 the European Communities ("the EC") had requested an injury determination for this order under section 104(b) of the TAA. Therefore, following the reguirements of that section, liquidation was suspended on April 3, 1980 on all shipments of molasses from France 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 molasses from France.

Scope of the Review

Imports covered by this review are molasses imported directly or indirectly from France. These imports are currently classifiable under item number 155.40 of the Tariff Schedules of the United States. The review covers the period January 1, 1980 through December 31, 1980, and is limited to the program of restitution payments made through the Guidance and Guarantee Fund operated under the Common Agricultural Policy of the EC. France is a member state of the EC. This was the only program found counter-vailable in the final determination.

Analysis of the Program

The restitution payments are granted only when the world price of molasses as established by international markets is lower than the EC "threshold price." For the period of review, the EC has not made any restitution payments on exports of molasses from France to any country including the United States. The program itself remains in effect.

We verified information, submitted by the Delegation of the Commission of the European Communities, through a review of public documents published by the EC.

Preliminary Results of the Review

As a result of our review, we preliminarily conclude that exports of molasses from France did not receive any restitution payments from the EC for the period January 1, 1980 though December 31, 1980. There are no known unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption prior to January 1, 1981.

The Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This waiver of deposit shall remain in effect until publication the final result 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. 71-118, on each entry, or withdrawal from warehouse, for consumption of this merchandise, and liquidation shall continue to be suspended until the Department is notified of an injury determination by the ITC.

Interested parties may submit written comments on these preliminary results on or before October 21, 1981, and may request disclosure and/or a hearing on or before October 7, 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).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 16, 1981.

[FR Doc. 81-27507 Filed 9-21-81; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Albany International Corp; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Albany International Corporation, having a

place of business at Albany, New York, an exclusive right in the United States and certain Foreign countries to manufacture, use and sell products embodied in the invention, "Device for Insect Control", U.S. Patent Application No. 252,992 (dated April 10, 1981). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been jointly assigned to the United States of America, as represented by the Secretary of Agriculture, and Albany International. Custody of Agriculture's entire right, title and interest to this invention has been transferred to the Secretary of Commerce.

The proposed license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: September 17, 1981.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 81-27511 Filed 9-21-81; 8:45 am]

BILLING CODE 3510-04-M

Bio-Systems Research, Inc.;, Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Bio-Systems Research, Inc. having a place of business at Salida, Colorado, and exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Anti-Freedant for Boll Weevils", U.S. Patent Application No. 140,911 (dated April 16, 1980). The availability of this invention for licensing was announced in the **Federal Register** on September 11, 1980. Copies of the Patent Application may be obtained from the Office of Government Inventions and patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Agriculture. Custody of the entire right, title and interest to this invention has been transferred to the Secretary of Commerce.

The proposed license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquires, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: September 17, 1981.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 81-27510 Filed 9-21-81; 8:45 am]

BILLING CODE 3510-04-M

Santek, Inc.; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Santek, Inc., having a place of business at 4110 Romaine St., Greensboro, North Carolina, a partial exclusive right in the United States and an exclusive right in Canada to manufacture, use and sell products embodied in the invention, "Wet-Wall Electroinertial Air Cleaner", U.S. Patent Application No. 898,556 (dated April 21, 1978). The availability of this invention for licensing was announced in the **Federal Register** on March 1, 1979. Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Agriculture. Custody of the entire right, title and interest to this invention has been transferred to the Secretary of Commerce.

The proposed license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: September 17, 1981.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 81-27509 Filed 9-21-81; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee; Meeting

The Defense Science Board will meet in closed session 22–23 October 1981 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for 22–23 October 1981 to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C.

§ 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 17, 1981.

[FR Doc. 81-27563 Filed 9-21-81; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Coso Geothermal Development Program, Tier 3, Exploratory Drilling and Testing

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act, (§ 1505.2 of Title 40, *Code of Federal Regulations*), the Department of the Navy announces its decision to proceed with the exploratory drilling and testing phase of the geothermal development program at the Coso Hot Springs site, Naval Weapons Center (NWC), China Lake, California.

The exploratory drilling and testing phase involves drilling and flow testing of three, approximately 6,000-foot deep, wells on three of four potential sites. Related facilities, including site access roads and temporary pipelines, are also planned for construction. The purpose of this phase of the program is to acquire information on the thermal, chemical and hydrologic characteristics of the geothermal resource. The primary physical impacts are the expected removal of approximately 10 acres of natural desert land surface, temporary (local) generation of noise and dust, and the creation of a limited potential for the uncontrolled release of geothermal fluids and noncondensible gases. The primary impacts to the human environment will be minimal conflicts with NWC operations and the potential for temporary conflicts with Native American religious use of the nearby Prayer Site and of Coso Hot Springs. Project impacts are judged to be of a minor nature. The proposed project represents the best means of determining tahe nature of the geothermal resource and at the same time minimizing degradation of the environment in the project area.

Alternatives considered were either the drilling of additional or fewer wells as the nature of the geothermal exploratory program is generally site-independent. The drilling of three wells as selected was found to be the optimum for the purpose of assessing the potential reservoir conditions. Sites selected were those with the lowest environmental sensitivity. In addition, conditions will be imposed on drilling and testing activities to minimize inadvertent off-site damage, to reduce the possibility of an accidental discharge of fluids and/or gases and to provide for surface restoration after completion of the project.

Dated: September 17, 1981

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 81-27501 Filed 9-21-81; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

United Engineers and Constructors; Proposed Contract Award

SUMMARY: In accordance with Department of Energy (DOE) Procurement Regulations, Title 41, Subpart 9-1.5409, published in the **Federal Register** on January 11, 1979 (44 FR 2556), DOE gives public notice that a contract award, recognizing the existence of potential organizational conflicts of interest, is in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT:

Craig Frame, Office of Procurement Operations, Room 1J054, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-1013;

Richard Oehl, Office of Nuclear Energy, Room J-415, Germantown, Washington, D.C. 20545, Telephone (301) 353-2948.

Findings

1. The Department of Energy (DOE), Office of the Assistant Secretary for Nuclear Energy has a continuing requirement for technical analyses and data development relating to nuclear powerplant technologies, including comparisons to the competitive alternative technologies. The contract effort will include design studies of a conceptual and preliminary nature, engineering studies, analysis of construction techniques and methods, economic analysis and systems analysis of nuclear systems and competing technologies and their applications to meet both electrical and thermal energy needs.

2. In response to the solicitation for a contractor to perform this type of effort, two offerors were deemed to fall into the competitive range. Of the two, United Engineers and Constructors (UE&C) received the higher technical rating and had the lower cost proposal.

3. In accordance with 41 CFR 9-1.5405, Raytheon Company and its wholly owned subsidiary UE&C provided statements disclosing relevant information concerning its interests related to the work performed for the agency and bearing on whether it has possible organizational conflicts of interest (1) with respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

4. Based on an evaluation of the facts contained in the disclosure statement, that is, the clientele and energy interests of Raytheon Company and its wholly owned subsidiary UE&C, it has been found that UE&C has organizational conflicts of interest with regard to the work required by the Office of Nuclear Energy, in accordance with 41 CFR 9-1.5409(a).

5. Because no other offeror in the competitive range was found to have little or no likelihood of organizational conflicts of interest and based on the needs of the agency and the fact that UE&C and the higher technical rating and lowest cost proposal, it is neither feasible nor desirable to disqualify UE&C from contract award in accordance with 41 CFR 9-1.5409(a)(1). Furthermore, it is not possible to totally avoid the organizational conflicts of interest by inclusion of appropriate conditions in the resulting contract, pursuant to 41 CFR 9-1.5409(a)(2).

6. Mitigation to the extent feasible under 41 CFR 9-1.5409(a)(3) will be obtained by independent staff review by DOE officials. Also, UE&C will not participate in policymaking on management aspects in the areas of work being undertaken. In addition, the Organizational Conflicts of Interest Special Clause entitled "Organizational Conflicts of Interest, DOE PR 9-1.5403-2(b)," shall be included in the contract.

Dated: September 15, 1981.

Shelby T. Brewer,

Assistant Secretary for Nuclear Energy.

[FR Doc. 81-27473 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Office of the Assistant Secretary for Conservation and Renewable Energy

CSI Resource Systems, Inc.; Proposed Subcontract Award

ACTION: Notice of Proposed Subcontract Award.

SUMMARY: In accordance with Department of Energy (DOE) Procurement Regulations 41 CFR 9-

1.5409, DOE gives public notice that a subcontract award, recognizing the existence of potential organizational conflicts of interest, is in the best interests of the United States.

FOR FURTHER INFORMATION CONTACT:

Ms. Aleta Caracciolo or Mr. Greg Crider, Office of Procurement Operations, Room 1J-054, Forrestal Building, 1000 Independence Ave., SW, Washington, D.C. 20585, (202) 252-1009;

Ms. Charlotte Frola, Division of Energy from Municipal Waste, Conservation and Renewable Energy, Room GE-216, Forrestal Building, 1000 Independence Ave., SW, Washington, D.C. 20585, (202) 252-1700.

Findings, Mitigation, and Determination

Upon the basis of the following findings and determination, the proposed contract described below is being awarded recognizing the existence of potential organization conflicts of interest pursuant to the authority of 41 CFR 9-1.5409(a)(3).

Findings

1. On September 30, 1980 the Department of Energy (DOE), awarded a contract for support services in urban waste technology to One America, Inc., a Washington, D.C. management consulting firm. In the course of accomplishing the various solid waste/energy related tasks to fulfill the contract One America, Inc., sought to award a subcontract to CSI Resource Systems, Inc., a consulting firm which works primarily in the area of solid waste/energy recovery. These tasks relate to providing technical and economic assessments of technologies and concepts relating to energy recovery from wastes.

2. In accordance with 41 CFR 9-1.5405, CSI Resource Systems Inc., provided a statement disclosing relevant information concerning its interests related to the work to be performed for the agency and bearing on whether it has possible organizational conflicts of interest (1) with respect to being able to render impartial, technically sound and objective assistance or advice, or (2) which may give it an unfair competitive advantage.

3. After a thorough review of the information submitted, DOE was unable to find that there is little or no likelihood that a possible organizational conflict of interest exists for CSI, which derives a substantial amount of its sales revenue from similar activities with other clients.

4. CSI is a specialized consulting firm providing technical, economic, financial and environmental services to a wide range of project types throughout the country. Their clients include owners or sponsors of operating as well as planned facilities. It is this breadth of actual operational experience in all aspects of solid waste/energy matters which provides unique capability to assist One America in supporting the Department of Energy municipal waste to energy program. Therefore, it is neither feasible nor desirable to disqualify CSI from award pursuant to 41 CFR 9-1.5409(a)(1). Furthermore, it is not possible to avoid the potential organizational conflicts of interest by the inclusion of appropriate conditions in the resulting subcontract, pursuant to 41 CFR 9-1.5409(a)(2).

Mitigation

1. The contract will include the Organizational Conflicts of Interest Special Clause (41 CFR 9-1.5408-2(b)). The primary purpose of this clause is to aid in insuring that the Contractor is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under the contract, and does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

2. CSI's activity under the subcontract will be closely monitored by the DOE Division of Energy from Municipal Waste. The Statement of Work contains no policy-related activities. The subcontract work is but one factor to be considered in evaluating the support activities provided in the One America, Inc., contract. All work performed by the Contractor will be reviewed by DOE and final conclusions, recommendations, and decisions will be made by DOE officials with the Contractors playing an advisory role only.

3. In addition, the products of the support services contract will become part of the public record relating to the DOE municipal waste/energy activities and thus subject to public scrutiny for the validity of the data and findings presented.

Determination

In light of the above Findings and Mitigation, and in accordance with 41 CFR 9-1.5409(a)(3), the proposed contract award is in the best interests of the United States.

Dated: September 10, 1981.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 81-27474 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Benson-Montin-Greer Drilling Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action Taken on Consent Order September 4, 1981.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Oil Branch, Attn: John Marks, Office of Enforcement, 2000 M Street, NW., Washington, D.C. 20461, 202/653-3551.

SUPPLEMENTARY INFORMATION: On January 22, 1980, the OE published notification in the **Federal Register** that it executed a Consent Order with Benson-Montin-Greer Drilling Corporation (BMGC) of Farmington, New Mexico, on January 8, 1980, 45 FR 4371 (1980). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had a claim to all or a portion of the refund amount paid by BMGC pursuant to the Consent Order were requested to submit notice of their claims to the OE.

Although interested persons were invited to submit comments regarding the Consent Order to the OE, no comments were received. Therefore, the Consent Order was not modified.

The OE received no notices of claim to the refunds.

Pursuant to the Consent Order, BMGC refunded the sum of $68,369.13 by certified checks made payable to the United States Department of Energy on January 3, 1980. This sum has been received by the OE and deposited in a suitable account pending determination of its proper distribution.

Action taken

The OE is unable, readily, to identify the persons entitled to receive the $68,369.13, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE has petitioned the Office of Hearings and Appeals (OHA) on September 4, 1981 to implement special Refund Procedures pursuant to 10 CFR part 205, Subpart V,

10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 15th day of September 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-27477 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

BTA Oil Producers; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: Rod McKim, Office of Enforcement, 2000 M St., NW., Room 5204, Washington, D.C. 20461 (202) 653-3317.

SUPPLEMENTARY INFORMATION: On July 26, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with BTA Oil Producers, (BTA) of Midland, Texas on June 20, 1979, 44 FR 43762, (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had claims to all or a portion of the refund amount paid by BTA pursuant to the Consent Order were requested to submit their notices of claim to the OE.

The following persons submitted notices of claim to the OE:

Gulf Refining and Marketing Company
Mobil Oil Corporation

Although interested persons were invited to submit comments regarding the Consent Order to the OE, no comments were received. Therefore, the Consent Order was not modified.

Pursuant to the Consent Order, BTA refunded the sum of $415,816.87 by certified checks made payable to the United States Department of Energy. This sum has been deposited into a suitable account pending determination of its proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $415,816.87, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE petitioned the Office of Hearings and Appeals on September 4, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 15th day of September 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-27480 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Clark & Clark; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition Submitted to the Office of Hearings and Appeals: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: Rod McKim, Program Operations Division, Office of Enforcement, Room 5204, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3517.

SUPPLEMENTARY INFORMATION: On July 6, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with Clark & Clark, (Clark) of Ardmore, Oklahoma on June 7, 1979, 44 FR 39577 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had claims to all or a portion of the refund amount paid by Clark pursuant to the Consent Order were requested to submit their notices of claim to the OE.

One comment was received. The comment contained no new evidence which was materially inconsistent with evidence upon which the DOE's acceptance of the Consent Order was based. After review of that comment, the OE has determined that the Consent Order should not be modified.

The following persons submitted notices of claim to the OE:

Continental Oil Company
Defense Logistics Agency

Pursuant to the Consent Order, Clark refunded the sum of $57,911.81 by certified check made payable to the United States Department of Energy on August 4, 1979. This amount has been placed into a suitable account pending determination of its proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive $57,911.81, or to ascertain the amounts of refunds that such persons are entitled to recieve. Therefore, the OE petitioned the Office of Hearings and Appeals on September 4, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 15th day of September 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-27481 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Connally Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: September 4, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: Rod McKim, Office of Enforcement, 2000 M

Street, N.W., Room 5002, Washington, D.C. 20461, 202/653-3517.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with Connally Oil Company, (Connally) of Abiline, Texas on June 19, 1979, 44 FR 37331 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had claims to all or a portion of the refund amount paid by Connally pursuant to the Consent Order were requested to submit their notices of claim to the OE.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. Therefore, the Consent Order was not modified.

Pursuant to the Consent Order, Connally refunded the sum of $100,000.00 by certified checks made payable to the United States Department of Energy in eight equal quarterly installments. This sum has been placed into a suitable account pending determination of its proper distribution.

The following person submitted a notice of claim to the OE:

Mobil Oil Corporation

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $100,000.00, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE petitioned the Office of Hearings and Appeals on September 4, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 15th day of September, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-27476 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Milam M.C., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn.: Rod McKim, Office of Enforcement, Program Operations Division, 2000 M St., NW., Room 5204, Washington, D.C. 20461. (202) 653-3517.

SUPPLEMENTARY INFORMATION: On August 3, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with Milam M.C., Inc. (Milam), of Casey, Illinois, on July 24, 1979, 44 FR 45665 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had claims to all or a portion of the refund amount paid by Milam pursuant to the Consent Order were requested to submit their notices of claim to the OE.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. Therefore, the Consent Order was not modified.

The OE received no notices of claim to the refunds.

Pursuant to the Consent Order, Milam refunded the sum of $52,440.69 by certified checks made payable to the United States Department of Energy. This sum has been deposited into a suitable account pending determination of its proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $52,440.69, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE petitioned the Office of Hearings and Appeals on September 11, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 15th day of September 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-27475 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Partlow and Cochonour; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received purusant to a Consent Order.

DATE: Petitions submitted to the Office of Hearings and Appeals: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: Rod McKim; Office of Enforcement, 2000 M Street, NW., Room 5204, Washington, D.C. 20461, (202) 653-3517.

SUPPLEMENTARY INFORMATION: On October 15, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with Partlow and Cochonour (P and C) of Casey, Illinois on September 27, 1979, 44 FR 59267 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had a claim to all or a portion of the refund amount paid by P and C pursuant to the Consent Order were requested to submit notice of their claims to the OE.

Two comments were received. The comments contained no new evidence which was materially inconsistent with the evidence upon which the DOE's acceptance of the Consent Order was based. After review of the comments, the OE determined that the Consent Order should not be modified.

The following persons submitted notices of claim to the OE:

Defense Logistics Agency
Union Oil Company of California

Pursuant to the Consent Order, P and C refunded the sum of $152,138.68 by certified check made payable to the U.S. Department of Energy on October 23, 1979. This sum has been received by the OE and deposited in a suitable account pending determination of its proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $152,138.68 or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE petitioned the Office of Hearings and Appeals on September 11, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 15th day of September 1981.

Robert D. Gerring,

Program Operations Division.

[FR Doc. 81-27479 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Phoenix Resources Co. as Successor to King Resources Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: September 11, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Oil Branch, Attn: Rod McKim, Office of Enforcement, 2000 M Street, NW., Washington, D.C. 20461, 202/653-3551.

SUPPLEMENTARY INFORMATION: On January 25, 1980, the OE published notification in the Federal Register that it executed a Consent Order with Phoenix Resources Company, as successor to King Resources Company (Phoenix) of Oklahoma City, Oklahoma on December 14, 1979, 45 FR 6157 (1980). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believed they had claims to all or a portion of the refund amount paid by Phoenix pursuant to the Consent Order were requested to submit their notices of claim to the OE.

Although interested persons were invited to submit comments regarding the Consent Order to the OE, no comments were received. Therefore, the Consent Order was not modified.

The following person submitted notice of claim to the OE:

Sun Petroleum Products Company
Koch Industries

Pursuant to the Consent Order, Phoenix refunded the sum of $105,772.64 by certified checks made payable to the United States Department of Energy in four equal installments. This sum has been deposited in a suitable account pending determination of its proper distribution.

Action Taken

The OE is unable, readily, to identify the persons entitled to receive the $105,772.64, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE petitioned the Office of Hearings and Appeals (OHA) on September 11, 1981 to implement special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C., on the 15th day of September, 1981.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc. 81-27476 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-734-000]

Arkansas Power & Light Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that Arkansas Power & Light Company (AP&L) on September 2, 1981, tendered for filing a Letter Agreement with Arkansas Electric Cooperative Corporation (AECC). This agreement provides for the sale of 15,000 kilowatts of additional capacity to AECC by AP&L to assure AECC of adequate reserve margins from July 1, 1981, until Unit 2 of AP&L's White Bluff Generating Station went into commercial operation.

Copies of the filing were served upon Arkansas Electric Cooperative Corporation and also upon the Arkansas Public Service Commission, Louisiana Public Service Commission, Tennessee Public Service Commission, and the Public Service Commission of Missouri.

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 October 2, 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. 81-27531 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-736-000]

Central Illinois Public Service Co.; Filing September 15, 1981.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company (Central) tendered for filing on September 2, 1981, a General Transmission Rate applicable to (1) any party requiring electric power for resale or (2) any utility, using CIP's facilities to transmit long-term firm power from a supply source (other than Central) then interconnected with Central's transmission system.

Central states that this rate schedule provides for the transmission by the Company of electric energy furnished on an assured basis for a period of at least one year and under the terms and conditions set forth in the rate schedule.

Central proposes an effective date of September 2, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 October 2, 1981. Protests will be considered by the Commission in determining the

appropriate acton 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. 81-27532 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5059-000]

Central Utah Water Conservancy District; Application for Preliminary Permit

September 16, 1981.

Take notice that the Central Utah Water Conservancy District (Applicant) filed on July 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5059 to be known as the Currant Creek Dam Project located on Currant Creek near the town of Duchesne in Wasatch County, Utah. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lynn S. Ludlow, Central Utah Water Conservancy District, P.O. Box 427, Orem, Utah 84057.

Project Description—The proposed project would utilize the existing U.S. Bureau of Reclamation's Currant Creed Dam and would consist of: (1) A short penstock connected to an existing outlet pipe located at the toe of the dam; (2) a powerhouse containing a generating unit having a rated capacity of 200 kW at a head of 118 feet and a flow of 27 c.f.s.; (3) a switchyard; (4) a 1,000-foot long 25-kV transmission line; and (5) appurtenant facilities. Project energy would be delivered to an existing Moon Lake Electric Association, Inc. transmission line for eventual use within Applicant's facilities. Applicant estimates that the average annual energy output would be 1,000,000 kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the geologic, economic, and environmental aspects of the project, and would prepare an application for an FERC license. Applicant estimates the cost of studies under the permit would be $40,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 23, 1981 either the competing application itself [See 18 CFR 4.33(a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33(b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27541 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-751-000]

Edison Sault Electric Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that Edison Sault Electric Company (Edison), on September 8, 1981, tendered for filing a Supplemental Agreement No. 9, between Edison and Cloverland Electric Cooperative, Inc. (Cloverland), dated November 1, 1961, which agreement will supplement an existing Contract for Electric Service, dated January 2, 1952, between the same two parties. The Contract between the parties, dated January 2, 1952, has been designated FPC Rate Schedule No. 2 (Docket No. E-7870). The proposed supplemental agreement provides for a change in the rate schedule as provided in the contract, dated January 2, 1952, supplemented, under "Article V, Rates".

Copies of the filing were served upon Cloverland Electric Cooperative, Inc. and the Michigan Public Service Commission.

Any person desiring to be heard or to protect 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 October 5, 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. 81-27533 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-748-000]

Edison Sault Electric Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that Edison Sault Electric Company (Edison), on September 3, 1981, tendered for filing a Supplemental Agreement No. 5, between Edison and Upper Peninsula Power Company (Upper Peninsula), dated October 1, 1981, which agreement will supplement an existing Contract for Electric Service, dated September 10, 1976, between the

same two parties. The contract between the parties, dated September 10, 1976, has been designated FPC Rate Schedule No. 7 (Docket No. ER77-98). The proposed supplemental agreement provides for a change in the rate schedule as provided in the contract, dated September 10, 1976, under section "Increases or Decreases in Rates".

Copies of the filing were served upon Upper Peninsula and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 5, 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. 81-27534 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3457-001]

French Broad Electric Membership Corp.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 16, 1981.

Take notice that on April 24, 1981, French Broad Electric Membership Corporation (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. Secs. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 3457-001) would be located on the French Broad River, near Marshall, in Madison County, North Carolina. Correspondence with the Applicant should be directed to: Mr. Charles R. Tolley, General Manager, P.O. Box 9, Marshall, North Carolina 28753.

Project Description—The proposed project would consist of: (1) An existing 500-foot long and 8-foot high concrete dam with ten 5-food wide and 6-foot high gates; (2) an existing reservoir of approximately 37 acres and a storage capacity of approximately 205 acre-feet; (3) an existing canal that is approximately 575 feet long and 80 feet wide at the intake gates; (4) a proposed powerhouse to be positioned at the end of the intake canal with an estimated installed generating capacity of 3.0 MW; and (5) appurtenant facilities. The project would be operated on a "run of river" basis.

Purpose of Project—All energy generated would be used by the Applicant to reduce fuel and utility costs in the rural area of Madison County, North Carolina. The average annual energy generation is estimated to be 18.5 GWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the North Carolina Wildlife Resources Commission are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 2, 1981, either the competing license application that proposes to develop at least 7.5 megawatts in the project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 2, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27542 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5094-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

September 16, 1981.

Take notice that Homestake Consulting & Investments, Inc. (Applicant) filed on July 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§791(a)-825(r)] for Project No. 5094 known as the Barnum Creek Water Power Project located on Barnum Creek in Lincoln County, Montana. The application is on file with the

Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P.O. Box 1467, Noxon, Montana 59853.

Project Description—The project would consist of: (1) A 2-foot high diversion structure; (2) a 2,750-foot long, 20-inch diameter penstock; (3) a powerhouse with total installed capacity of 300 kW; and (4) a 25,500-foot long, 5–kV transmission line which would connect the powerhouse to the existing Flathead Electric Corporation transmission line. The Applicant estimates that the average annual energy production would be 1,314,300 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $3,850.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 23, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d)(1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c)(1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27543 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5107-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

September 16, 1981.

Take notice that Homestake Consulting & Investments, Inc. (Applicant) filed on July 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5107 known as the Spruce Creek Water Power Project located on Spruce Creek in Boundary County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P.O. Box 147, Noxon, Montana 59853.

Project Description—The project would consist of: (1) A 2-foot high diversion structure; (2) a 3,600-foot long, 16-inch diameter penstock; (3) a powerhouse with total installed capacity of 200 kW; and (4) a 3,000-foot long, 5-kV transmission line which would connect the powerhouse to the existing Northern Lights, Inc. transmission line. The Applicant estimates that the average annaul energy production would be 762,100 kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $4,800.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 23, 1981, either the competing application itself [See 18 CFR 4.33(a) and (d)(1980)] or a notice of intent [See 18 CFR 4.33(b) and (c)(1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing

application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27544 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5097-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

September 16, 1981.

Take notice that Homestake Consulting & Investments, Inc. (Applicant) filed on July 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5097 known as the Lime Creek Water Power Project located on Lime Creek in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P.O. Box 1467, Noxon, Montana 59853.

Project Description—The project would consist of: (1) A 2-foot high diversion structure; (2) a 3,400-foot long, 12-inch diameter penstock; (3) a powerhouse with total installed capacity of 100 kW; and (4) an 18,000-foot long, 5-kV transmission line which would connect the powerhouse to the existing Pacific Power & Light Company Transmission line. The Applicant estimates that the average annual energy production would be 499,300 kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $3,250.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 23, 1981 either the competing application itself [See 18 CFR 4.33(a) and (d)(1980)] or a notice of intent [See 18 CFR 4.33(b) and (c)(1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Portests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27545 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5098-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

September 16, 1981.

Take notice that Homestake Consulting & Investments, Inc. (Applicant) filed on July 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5098 known as the Hall Creek Water Power Project located on Hall Creek in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P.O. Box 1467, Noxon, Montana, 59853.

Project Description—The project would consist of: (1) A 2-foot high diversion structure; (2) a 5,100-foot long, 16-inch diameter penstock; (3) a powerhouse with total installed capacity of 400 kW; and (4) a 7,200-foot long, 5-kV transmission line which would connect the powerhouse to the existing Pacific Power & Light Company transmission line. The Applicant estimates that the average annual energy production would be 2,084,900 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $4,900.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 23, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the

Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27546 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5105-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

September 16, 1981.

Take notice that Homestake Consulting & Investments, Inc. (Applicant) filed on July 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5105 known as the Six Mile Creek Water Power Project located on Six Mile Creek in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P.O. Box 1467, Noxon, Montana, 59853.

Project Description—The project would consist of: (1) A 2-foot high diversion structure; (2) a 3,900-foot long, 16-inch diameter penstock; (3) a powerhouse with total installed capacity of 150 kW; and (4) a 2,800-foot long, 5–kV transmission line which would connect the powerhouse to the existing Pacific Power & Light Company transmission line. The Applicant estimates that the average annual energy production would be 665,800 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $3,200.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 23, 1981, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 23, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27547 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4563-001]

John R. LeMoyne; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

September 16, 1981.

Take notice that on August 14, 1981, Mr. John R. LeMoyne (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 4563) would be located on the Applicant's fish rearing plant in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Mr. John R. LeMoyne, Route 1, Box 148, Hagerman, Idaho 83332.

Project Description—The proposed project would consist of: (1) A 50-foot long, 36-inch diameter penstock; and (2) a powerhouse to contain one Francis-type, turbine-generating unit with a rated capacity of 33.72 kW.

Purpose of Project—The power generated by the project would be used in the Applicant's commercial fish hatchery plant.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries service, and the Idaho Department of Fish and Game requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments

they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 2, 1981, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protests, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 2, 1981.

Filing and Service of Responsive Deocuments—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27548 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 5240-000]

Modesto Irrigation District; Application for Preliminary Permit

September 16, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on August 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5240 known as the Dedrick Lookout Trinity Power Project located on the Canyon Creek in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Lee Delano, Modesto Irrigation District, 1231—11th Street, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of: (1) A new 5-foot high by 99-foot long combination natural rock and concrete diversion structure; (2) a 25,000-foot long diversion conduct; (3) a 2,000-foot long by 40-inch diameter steel penstock; (4) a powerhouse with an installed capacity of 4.3 MW; and (5) a 12.5-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line at the proposed site.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued does not authorize construction. The Applicant seeks a 24-month preliminary permit to study the feasibility of the proposed project.

Competing Applications—This application was filed as a competing application to Dedrick Lookout Trinity Power Project No. 4366 filed on March 18, 1981, by Consolidated Hydroelectric, Inc, under 18 CFR 4.33 (1980). Public notice of the filing on the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before October 16, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petitions to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27549 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-740-000]

Montana Power Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that Montana Power Company (Montana) on September 3, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, the Letter Agreement with San Diego Gas & Electric Co. (San Diego). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and San Diego.

Montana indicates that the proposed Letter Agreement increased revenues

from jurisdictional sales by $17,038.35 based upon energy delivered from March 1, 1981 through March 31, 1981. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of March 1, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana also tendered for filing a Notice of Cancellation of a Rate Schedule and all of its supplements, dated March 31, 1981. This is for the sale of firm energy between Montana and San Diego. Montana states that these agreements have expired as of their own terms and have not been renewed.

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 October 2, 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. 81-27535 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-741-000]

Montana Power Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on September 3, 1981, tendered for filing in accordance with Section 35 of the Commission's regulations, the Letter Agreement with Pacific Gas & Electric Company (Pacific). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Pacific.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $126,242.55, based upon energy delivered from March 1, 1981 until terminated by either party given at least thirty days advance written notice to the other party. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of March 1, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

In addition, Montana also tendered for filing a Notice of Cancellation of a Rate schedule and all of its supplements dated March 1, 1981. This is for the sale of firm energy between Montana and Pacific. Montana states that these agreements have expired as of their own terms and have not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10), All such petitions or protests should be filed on or before October 2, 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. 81-27536 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-732-000]

New England Power Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that on September 1, 1981 New England Power Company ("NEP") filed a full cost of service rate for the purchase by Public Service Company of New Hampshire ("PSNH") of capacity from NEP's entitlement to Wyman Unit #4. Under a contract dated as of November 1, 1979, PSNH agreed, beginning November 1, 1981, to pay NEP's full cost for capacity purchase from NEP's Wyman #4 entitlement.

NEP requests that the Commission allow the full cost of service rate into effect on November 1, 1981.

Any person desiring to be heard or to make any protest with reference to this filing should submit to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before October 2, 1981, petitions to intervene or protest according to the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but protests will not serve to make protestants parties to the proceeding. A person wishing to become a party must file a petition to intervene. Copies of the application and supporting documents are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27539 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-467-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

September 16, 1981.

Take notice that on August 18, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-467-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new delivery point for its utility customer, Owatonna Public Utilities (Owatonna), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 4.3 miles of 10-inch branchline and a new delivery point to Owatonna which would establish an additional town border station located in Steel County, Minnesota. Applicant states that this station would provide industrial service to the Owatonna electric generation facility as well as commercial and residential service to both existing and potential customers.

Applicant states that increased demand for natural gas service as well as a pressure drop problem across Owatonna's system has placed excessive demands on the current town border station's capacity. Applicant asserts that the proposed facilities would strengthen service to the Owatonna area, increase reliability of Owatonna's system in case of problems with the current point of service or its supply lines, and provide a high pressure source to the combustion gas turbine to be located on the western edge of town.

Applicant avers that the cost to construct the proposed facilities is estimated to be $1,181,150. Applicant states that it would be reimbursed by Owatonna for such cost.

Applicant states additional volumes to be delivered to Owatonna through the proposed facilities are within its present entitlements and would be delivered pursuant to the effective service agreement between Applicant and Owatonna.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 6, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27550 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-70-000]

Placid Refining Co.; Filing of Petition for Review Under 42 U.S.C. 7194

September 15, 1981.

Take notice that Placid Refining Company on September 3, 1981 filed a Petition for Review under 42 U.S.C. 7194(b) (1977) (Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 1, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 1, 1981, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27538 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-735-000]

Tampa Electric Co.; Filing

September 15, 1981.

The filing Company submits the following:

Take notice that Tampa Electric Company (Tampa Electric), on September 2, 1981, tendered for filing Service Schedules A and B providing for interchange service between Tampa Electric and Jacksonville Electric Authority (Jacksonville). Correspondence concerning this matter should be addressed to: Mr. G. Pierce Wood, Senior Vice President, Tampa Electric Company, P.O. Box 111, Tampa, Florida 33601; and Peter C. Lesch, Esq., Gallagher, Boland, Meiburger and Brosnan, 821 Fifteenth Street, N.W., Washington, D.C. 20005.

Schedules A and B provide for the emergency and scheduled short-term interchange of capacity and energy between Tampa Electric and Jacksonville. Tampa Electric asks that the Schedules be made effective as of July 1, 1981, and therefore seeks waiver of the Commission's notice requirements pursuant to § 35.11 of the Commission's Regulations, 18 CFR 35.11.

A certificate of concurrence by Jacksonville was filed with the Schedules. Copies of the filing have been served on Jacksonville and the Florida 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 Sections 1.8 and 1.10 of the Commission's rules of practice and procedure, 18 CFR 1.8 and 1.10 (1980). All such petitions or protests should be filed on or before October 2, 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. 81-27539 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-71-000]

Wilson Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

September 15, 1981.

Take notice that Wilson Oil Company on September 4, 1981 filed a Petition for Review under 42 U.S.C. 7194(b) (1977) (Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 1, 1981, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings

before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 1, 1981, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St. NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-27540 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-85-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket FEMA-REP-7-IA-1]

Iowa Radiological Emergency Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: For continued operations of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of Iowa has submitted its radiological emergency plans to the FEMA Regional Office. These State and local government plans support the Quad Cities Nuclear Plant Units 1 and 2 located at Cordova, Illinois.

DATE: Plans Received: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick J. Breheny, Regional Director, FEMA Region VII, 911 Walnut, Kansas City, Missouri 64106, (816) 374-5912.

NOTICE: In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness," the Iowa Emergency Plan was received by the Federal Emergency Management Agency Region VII Office.

Included are plans for Clinton and Scott Counties which are wholly or partially within the plume exposure pathway emergency planning zones of the Quad Cities plant.

Copies of the Plan are available for review at the FEMA Region VII Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are 1110 pages in the document; reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Patrick J. Breheny, Regional Director, at the above address within thirty days of this **Federal Register** Notice.

Patrick J. Breheny,

Regional Director, FEMA—Region VII.

September 9, 1981.

[FR Doc. 81-27486 Filed 9-21-81; 8:45 am]

BILLING CODE 6718-01-M

[Docket FEMA-REP-NY-3]

New York Radiological Emergency Preparedness Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of New York has submitted its radiological emergency plans to the FEMA Regional office. These plans support nuclear power plants which impact on New York and include those of local governments near the R.E. Ginna Nuclear Power Station, located in the Town of Ontario in Wayne County, New York.

DATE: Plans received: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: Plans and Preparedness Division, Region II, 26 Federal Plaza, New York, New York 10278, Telephone: (212) 264-4900.

NOTICE: In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness", 45 FR 42341, the State Radiological Emergency Plan for the State of New York was received by the Federal Emergency Management Agency Region II Office.

Included are plans for Wayne County and Monroe County which are partially within the plume exposure pathway emergency planning zone.

Copies of the Plan are available for review at the FEMA Region II Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are approximately 1,100 pages in the document; reproduction fees are $0.10 per page, payable with the request for copy.

Comments on the Plan may be submitted in writing to the Regional Director at the above address on or before October 9, 1981.

FEMA Proposed Rule 44 CFR 350.10 also calls for a public meeting prior to the submission of plans by the Regional Office to Headquarters for approval determination. Details of this meeting will be announced in the *Rochester Times Union, Rochester Democrat and Chronicle,* and the *Finger Lakes Times,* Geneva, New York, at least two weeks prior to the scheduled meeting. Local radio and television stations will be requested to announce the meeting.

Vincent Forde,

Acting Regional Director.

September 10, 1981.

[FR Doc. 81-27487 Filed 9-21-81; 8:45 am]

BILLING CODE 6718-01-M

[Docket FEMA-REP-2-NY-2]

New York Radiological Emergency Preparedness Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Receipt of Plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of New York has submitted its radiological emergency plans to the FEMA Regional office. These plans support nuclear power plants which impact on New

York, New Jersey and Connecticut, and include those of local governments near the Indian Point Nuclear Power Station located at Indian Point, Village of Buchanan, Town of Cortlandt in Westchester County.

DATE: Plans Received: August 18, 1981.

FOR FURTHER INFORMATION CONTACT: Plans and Preparedness Division, Regional II, 26 Federal Plaza, New York, New York 10278, Telephone: (212) 264–4900.

NOTICE: In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR Part 350.8), "Review and Approval of State Radiological Emergency Plans and Preparedness", 45 FR 42341, the State Radiological Emergency Plan for the State of New York was received by the Federal Emergency Management Agency Region II Office.

Included are plans for Putnam County, Orange County, Westchester County and Rockland County, which are partially within the plume exposure pathway emergency planning zone.

Copies of the Plan are available for review at the FEMA Region II Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR Part 5. There are approximately 3,500 pages in the document; reproduction fees are $0.10 per page, payable with the request for copy.

Comments on the Plan may be submitted in writing to the Regional Director at the above address on or before October 8, 1981.

FEMA Proposed Rule 44 CFR 350.10 also calls for a public meeting prior to the submission of plans by the Regional Office to Headquarters for approval determination. Details of this meeting will be announced in the following newspapers at least two weeks prior to the scheduled meeting:

Westchester County

Patent Trader, Mount Kisco, N.Y.
Peekskill Evening Star, Peekskill, N.Y.
Reporter Dispatch, White Plains, N.Y.

Putnam County

Evening News, Beacon, N.Y.
Putnam County News and Recorder, Cold Spring, N.Y.
Community Current, Putnam Valley, N.Y.
Evening Star, Peekskill, N.Y.
News Times, Brewster, N.Y.
Patent Trader, Carmel, N.Y.
Putnam County Courier, Carmel, N.Y.
Reporter Dispatch, Carmel, N.Y.

Orange County

Time Herald Record, Middletown, N.Y.
The Evening News, Newburgh, N.Y.
The Union Gazette, Port Jervis, N.Y.
News of the Highlands, Highland Falls, N.Y.
Cornwall Local, Cornwall, N.Y.
The Sentinel, Vails Gate, N.Y.
The Advertiser Photo News, Monroe, N.Y.
The Greenwood Lake News, Greenwood Lake, N.Y.

Rockland County

North Rockland Times, Haverstraw, N.Y.
Journal News, Nyack, N.Y.
Today, Nyack, N.Y.

September 8, 1981

Vincent Forde,

Acting Regional Director.

[FR Doc. 81-27486 Filed 9-21-81; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for aproval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 2, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3800–B.

Filing party: Mr. Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3800–B, between the City of Long Beach (City) and California United Terminals (CUT), provides for the lease by City to CUT of two container cranes for use in handling containers at Piers B and C in the Port of Long Beach, California. Rental for the cranes will be based on amortization of the purchase price over a 17½-year period, which will require a basic monthly rental payment of $57,052.56. A portion of the rental may be deferred during the first 7½ years of the amortization period, at CUT's option, and depending on whether CUT's options to renew the basic preferential berth assignment at the premises (Agreement No. T–3800) are exercised. If Agreement No. T–3800 is not renewed, the remaining payment becomes due as a lump sum. CUT has the option to purchase the cranes at any time during the term of the agreement. All rates, charges, regulations and practices of CUT will be subject to the review and control of City. City also reserves the right to make temporary assignments of the cranes to other parties, so long as such assignments do not interfere with CUT's authorized operation.

Agreement No. T–3943–1.

Filing party: Mr. David Ainsworth, Assistant General Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Summary: Agreement No. T–3943–1, between American President Lines, Ltd. (APL) and Foss Alaska Line, Inc. (FOSS), amends the proponents' basic agreement whereby APL furnishes FOSS comprehesive stevedoring and terminal services at Unalaska, Alaska. The purpose of the amendment is to substitute the numbers and words "20 foot, 24 foot or 40 foot" in place of the numbers and words "20 foot or 24 foot" in paragraphs 1 and 2 of Article 2. A new paragraph 3 is added to Article 2 reading as follows: "Stevedoring services consisting only of unloading from and loading FOSS' barge for 20 foot, 24 foot, and 40 foot containers."

Agreement No. T–3990.

Filing party: Mr. Don S. Harvey, Acting Director of Administration, Port Everglades Authority, P.O. Box 13136, Port Everglades, Florida 33316.

Summary: Agreement No. T–3990, between the Port Everglades Authority and Sea-Land Service, Inc. (Sea-Land), restates and extends the term of a previous lease agreement between the parties. Agreement No. T–3990 provides

for the one-year lease to Sea-Land of approximately 6 acres of land for use in the handling and processing of containers and related equipment.

As compensation, Sea-Land shall pay a minimum monthly rental of $4,350.50, which may be offset by dockage and wharfage payments. Both parties further agree to Sea-Land's option to lease additional land, provisions for subletting or assignments, indemnification and other terms provided for in the agreement.

Agreement No. 10429.

Filing party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, NW, Washington, D.C. 20006.

Summary: Agreement No. 10429 is a cooperative working agreement, between Niviera Central, C.A. and Naviera Continental, S.A. both Venezuelan Corporations, under common ownership. The agreement provides that the common owner will coordinate ocean common carrier operations and sailings of the 2 affiliate carriers in the trade between Miami, Florida and ports in Venezuela. Both carriers will be served by the same U.S. general agent. Each carrier will file its own tariff, but the rates will be the same.

Dated: September 15, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-27400 Filed 9-21-81; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, NY; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 13, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discusss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forward to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3071-1.

Filing party: Frank Wagner, Esquire, Deputy City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Summary: Agreement No. T-3071-1, between the City of Los Angeles and Japan Line, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd, (the Lines), modifies the basic agreement between the parties, which provides for the non-exclusive preferential use by the Lines of certain premises in the Port of Los Angeles, as well as the option to use additional property adjacent to that initially covered by the agreement. The purposes of the modification is to decrease the amount of additional property available for the Lines' optional use, and to add certain standard provisions involving affirmative action programs.

Agreement No. 9891-8.

Filing party: Frederick L. Shreves, II, Esquire, Hill, Betts & Nash, 1220 Nineteenth St., NW., Washington, D.C. 20036.

Summary: Agreement No. 9891-8, the Unigulf Alternate Sailing and Ratemaking Agreement between Armement Deppe, S.A. and Ozean/Stinnes Line Joint Service, modifies the basic agreement by extending the term from January 1, 1982 to January 1, 1985.

Agreement No. 9973-8.

Filing party: Wade S. Hooker, Jr., Esquire, Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 9973-8, modifies the Johnson ScanStar Combined Service Agreement to include traffic between the United States and the Republic of Mexico within it scope.

Agreements Nos. 9984-17 and 9984-23.

Filing party: John McCluskey, Chairman, South Atlantic-North Europe Rate Agreement, 17 Battery Place, New York, New York 10004.

Summary: Agreements Nos. 9984-17 and 9984-23, originally filed with the Commission on June 2, 1981 and previously published in the Federal Register on June 16, 1981 have been refiled by the member lines of the South Atlantic-North Europe Rate Agreement to delete the words "but not limited to" on line 3 in subparagraph (b) of Article II of Agreement No. 9984-17 and to increase the notice period for independent action set forth on line 1 of subpargraph (c) of this Article from 10 days to 30 days. Article VII (new Article IX, Agreement No. 9984-23) is being revised to add the work "and" between the words "amended" and "shall" on line 3 and to change the expiration date from September 30, 1983 to March 31, 1983, which appears on lines 3 and 4 thereof.

Agreement No. 10071-1

Filing party: Bruce Love, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 10071-1, modifies Agreement No. 10071, which established the Cruise Lines International Association (CLIA). The purpose of the modification is to amend the qualifications for membership in CLIA and to add provisions regarding the financial obligations of members and the requirement of an unanimous vote thereon.

Agreement No. 10428.

Filing party: Kathleen Mahon, Esquire, Galland, Kharasch, Calkins & Short, P.C., Canal Square, 1054 Thirty-First Street, NW., Washington, D.C. 20007.

Summary: Agreement No. 10428 is an exclusive general sales agency agreement between Puerto Rico Maritime Shipping Authority (PRMSA) and Imar Intercontinental Maritima. S.A. (Imar), whereby PRMSA will perform for Imar all services related to marketing, sales solicitation, bookings, freight collections and assistance in equipment control and documentation in connection with Imar's ocean shipping services between the Port of Miami and ports and points on the West Coast of South America, Venezuela, Panama and Colombia.

Imar will compensate PRMSA according to a formula as set forth in the agreement. The term of the agreement is without fixed limit.

Dated: September 17, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-27401 Filed 9-21-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank of Hawaii; Corporation To Do Business

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Bank of Hawaii International Corporation, New York, New York. Bank of Hawaii International Corporation, New York, New York would operate as a subsidiary of Bank of Hawaii, Honolulu, Hawaii. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 15, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 15, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27472 Filed 9-21-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expressed to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than October 13, 1981.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

First Bancorp of N.H., Inc., Manchester, New Hampshire (mortgage banking; New Hampshire): to engage through its subsidiary, FirstBank Mortgage Corp., in the origination, sale and servicing of both residential and commercial mortgages, and the origination and servicing of construction loans. These activities would be conducted from a new office located in Nashua, New Hampshire, serving Hillsborough and Rockingham counties in New Hampshire and communities within a twenty-five mile radius of the proposed office.

B. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Correction

Citicorp, New York, New York, (consumer finance and insurance activities; North Carolina, Kentucky, Tennessee, Virginia, and West Virginia). This notice corrects a previous **Federal Register** notice (FR Doc. 81-25936) published at page 44501 of the issue for Friday, September 4, 1981. The notice is corrected to read: These activities would be conducted from an office of the subsidiary located in Roanoke, Virginia, serving the States of North Carolina, Kentucky, Tennessee, Virginia, and West Virginia.

C. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; North Carolina): to engage *de novo*, through its subsidiary, The Kissell Company, in mortgage banking activities, including the making or acquiring and servicing for its own accounts and/or the accounts of others, loans and other extensions of credit. These activities would be conducted from an office of the subsidiary located in Raleigh, North Carolina, serving the counties of Johnston, Durham, Chatham, Wilson, Franklin, and Wake in North Carolina.

D. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California, (financing and credit life, health and accident insurance activities; Pennsylvania): to engage through its subsidiary Security Pacific Consumer Discount Company in making or acquiring for its own account of for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company and acting as broker or agent for the sale of credit life, health and accident insurance. These activities would be conducted from an office of Security Pacific Consumer Discount Company located in Trevose, Pennsylvania, serving the State of Pennsylvania. This application constitutes a relocation of an existing office of Security Pacific Consumer Discount Company which is currently located in Philadelphia, Pennsylvania.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 15, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-27520 Filed 9-21-81; 8:45 am]

BILLING CODE 6210-01-M

Port City Holding Company, Inc.; Formation of Bank Holding Company

Port City Holding Company, Inc., Bainbridge, Georgia, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The Port City Bank, Bainbridge, Georgia. The factors that are considered in acting on the application

are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 4, 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, September 17, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-27014 Filed 9-21-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

President's Committee on Mental Retardation; Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee is scheduled to meet September 21, at the John F. Kennedy Center, 2nd Floor Executive Dining Room, Lo-Rise Building, Cambridge Street, Boston, Massachusetts. The Committee's two task groups on prevention (the Task Group on Environmental Concerns and Minority Affairs, and the Task Group on Mininum Occurrence—Biomedical) will convene from 8:30 a.m. to 5:00 p.m., to deliberate regarding the state of the art relative to prevention of mental retardation, current Committee activities in prevention, and proposed strategies for the next fiscal year.

These meetings are open to the public. The Hotel is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, Room 4025, ROB#3, 7th & D Streets, SW, Washington, D.C., telephone (202) 245-7634.

Dated: September 11, 1981.

Fred J. Krause,

Executive Director, President's Committee on Mental Retardation.

[FR Doc. 81-27551 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-12-M

President's Committee on Mental Retardation; Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee is scheduled to meet September 22, 1981 from 8:30 a.m. to 5:00 p.m., Holiday Inn, Clayton Plaza, LeGrande Salon, 7733 Bonhomme, Clayton, Missouri. The Committee will be conducting a Task Group Meeting on Community Support Services.

These meetings are open to the public. The Hotel is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, Room 4025, ROB#3, 7th & D Streets, SW, Washington, D.C., telephone (202) 245-7634.

Dated: September 11, 1981.

Fred J. Krause,

Executive Director, President's Committee on Mental Retardation.

[FR Doc. 81-27552 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-12-M

Food and Drug Administration

[Docket No. 81N-0228]

Travenol Laboratories, Inc.; Seal-Less Centrifugal Automated Blood Cell Separators; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is publishing for public comment the recommendation of the Hematology and Pathology Device Section of the Clinical Chemistry and Hematology Devices Panel (the Section) to deny a reclassification petition. The petition was filed by Travenol Laboratories, Inc., Deerfield, IL 60015, to reclassify seal-less centrifugal automated blood cell separators from class III (premarket approval) into class II (performance standards) as a category separate from all other types of automated blood cell separators. After reviewing the Section recommendation and any public comments received, FDA will, by order published in the Federal Register, either deny the petition or give notice of its intent to initiate a change in the classification of the device.

DATE: Comments by October 22, 1981.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nabeeh Mourad, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION: In 1979 and 1980, Travenol Laboratories, Inc., Deerfield, IL 60015, submitted to FDA premarket notifications under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(k)), stating that it intended to market two seal-less centrifugal automated blood cell separators. After reviewing the information in the premarket notifications, FDA determined the devices are substantially equivalent to blood cell separators that were in commercial distribution before May 28, 1976, and that are classified into class III in § 864.9245 (21 CFR 864.9245).

On January 19, 1981, Travenol Laboratories, Inc., submitted to FDA under section 513(e) of the act (21 U.S.C. 360c(e)) a reclassification petition for its seal-less centrifugal automated blood cell separators. Travenol based its petition on the argument that these devices should be in a category separate from all other types of automated blood cell separators, because they do not use seals.

Section 860.130(c) of the regulations governing reclassification of preamendments medical devices (21 CFR 860.130(c)) provides that FDA may secure from the advisory panel to which a device was last referred for classification, under section 513(c) of the act (21 U.S.C. 360c(c)), a recommendation respecting the proposed change in classification. On April 20, 1981, the Section reviewed the petition and recommended that seal-less centrifugal automated blood cell separators not be reclassified from class III into class II as a category separate from § 864.9245, which classifies into

class III all types of automated blood cell separates.

To determine the proper classification of these devices, the section considered the criteria specified in section 513(a)(1) of the act (21 U.S.C. 360c(a)(1)). For the purpose of classification, the Section assigned to the generic type of device the name "Automated Blood Cell Separator" and described this type of device as one that automatically removes whole blood from a donor, separates the blood into components (red blood cells, white blood cells, plasma, and platelets), retains one or more of the components, and returns the remainder of the blood to the donor. The components obtained are transfused or used to prepare blood products for administration to patients. These devices operate on a centrifugal separation principle. The separation bowls of centrifugal blood cell separators may be reusable or disposable.

Summary of the Reasons for the Recommendation

The Section gave the following reasons in support of its recommendation to deny reclassification:

1. Although hazards among different types of separators tend to be different, each type of separator is no more or less hazardous than any other.

2. The seal-less feature of the centrifugal automated blood cell separators does not significantly minimize the hazards associated with the blood cell separators to justify reclassifying these devices from class III into class II as a separate category.

Summary of the Data on Which the Recommendation is Based

The Section based its recommendation on the following performance characteristics of the device:

According to Douglas Huestis, M.D., of the University of Arizona, who was a speaker at the April 20 Section meeting, hazards tends to be different among different machines (Ref. 1). "The various machines are very operator dependent when considering if any one machine is less or more hazardous than any other." Travenol's CS 3000, for example, utilizes state-of-the-art technology to make the machine simple to operate. Dr. Huestis points out that there is a potential for operator inattention because the device has numerous automatic features, and also that the sensors tend to be supersensitive to the point where machine operators may turn off the sensors.

Dr. Huestis stated that because the collection bowl is concealed, the operator of the Travenol CS 3000 may be unaware of any clots or excess red cells until the end of the separation procedure. The CS 3000 plastic-ware also has numerous quality control problems such as leaks, kinks, and missing pieces.

Linn, et al., experienced a 21-percent defect rate in the experimental blood processing sets used on the Travenol CS 3000 (Ref. 2). (The latest production lot used in the study had a defect rate of 7.5 percent (Ref. 2)). In the 53 procedures done in the study, there were 2 leaks, 1 inoperative pressure monitor diaphragm, and 1 broken pump tubing (Ref. 2).

White and red cell contamination occurs during apheresis procedures regardless of the type of seal used in blood cell separators. In a study done by Katz, et al., the Travenol CS 3000 and the Haemonetics H-30 plateletpheresis procedures were compared (Ref. 3). The platelet yield was similar for the two procedures, but the CS 3000 had a smaller degree of white and red blood cell contamination (Ref. 3). In the study done by Linn, et al., where granulocytes were collected, the contamination of granulocyte concentrates by lymphocytes is rather high (approximately 25 percent) (Ref. 2).

Risks to Health

The Section noted that there is a risk of hepatitis infection caused by exposure to the donor and operator of blood or blood aerosols from an undetected or sudden leak in the system. The Section also noted that if the device fails to perform satisfactorily, the blood or blood components recovered may not be suitable for use because of cell damage during collection or processing.

Additional Findings

1. The Section also recommended that FDA reclassify all automated blood cell separators for donor procedures from class III into class II, but that this reclassification not take effect until a performance standard for these devices is effective.

2. The Section also believes that therapeutic uses of automated blood cell separators should remain in class III because insufficientf information exists to establish a performance standard assuring the safety and effectiveness of therapeutic uses of these devices.

FDA agrees with these additional findings and will reclassify automated blood cell separators for donor procedures into class II upon the effective date of performance standard for these devices.

References

The petition, the transcript of the Section meeting, and the following material are on public file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

(1) Huestis, Douglas, "Cell Collection and Transfusion Comparing All Available Instruments," in the Transcript of the Hematology Section Meeting of April 20, 1981.

(2) Linn, A., J. Smith, R. Porten, H. Cullis, J. Houx, and D. H. Buchholz, "Leukapheresis Using the Fenwal CS 3000 Blood Cell Separators," presented at the 33d Annual Meeting of the American Association of Blood Banks, November 1980. *Transfusion* 20:638, 1980.

(3) Katz, A. J., P. V. Genco, N. Bloomberg, E. L. Snyder, B. Camp, and E. E. Morse, "Platelet Collection and Transfusion Using the Fenwal CS 3000 Cell Separator." Accepted for publication in *Transfusion*.

Interested persons may, on or before October 22, 1981, submit to the Dockets Management Branch (address above) written comments on the recommendation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be submitted with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has carefully analyzed the economic effects of this notice and has determined that, if promulgated, the regulation reclassifying the device will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this notice has been carefully analyzed, and it has been determined that this notice does not constitute a major rule as defined in section 1(b) of the Executive Order. Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (§ 860.134(b)(5) (21 CFR 860.134(b)(5))), FDA is required to publish this notice in the **Federal Register** as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing in the **Federal Register** this notice without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

Dated: September 16, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-27471 Filed 9-21-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with 43 CFR 1780 that a meeting of the Medford District Advisory Council will be held on Friday, October 16. The meeting will begin at 9 AM and will end at 12 noon in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon.

The agenda for the meeting will include:

1. General announcements of BLM Medford District activities.
2. Review of Areas of Critical Environmental Concern Nominations (Foots Creek, Little Applegate, and Applegate Watershed).
3. Plans for future meetings

The meeting is open to the public and news media. Interested persons may make oral statements to the Council between 11 AM and 12 noon or file written statements for the Council's consideration.

Anyone wishing to make an oral statement must notify the Public Affairs Officer, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97501, telephone 503/776-4198, by close of business October 13. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary of minutes of the Council meeting will be maintained at the District Office and be available for public inspection and reproduction at the cost of duplication.

Hugh R. Shera,

District Manager.

September 9, 1981.

[FR Doc. 81-27516 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-84-M

[M 52837]

Montana; Order Providing for Opening of Public Lands

September 10, 1981.

1. In an exchange of land made under the provisions of the Act of October 21, 1976, 43 U.S.C. 1701 et seq., the following lands have been reconveyed to the United States:

Principal Meridian

T. 2 S., R. 58 E.,
Sec. 1, SE¼; and
Sec. 12, NE¼.
T. 2 S., R. 59 E.
Sec. 7, Lots 1, 2, 3, and 4; and
Sec. 18, Lot 1.

The areas described aggregate 603.11 acres in Carter County.

2. The mineral rights in Lots 1 and 2, Sec. 7, T. 2 S., R. 59 E., have been and continue to be vested in the United States. The government did not acquire the mineral rights in the balance of the above-described land.

3. Subject to valid existing rights, the provision of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 shall be open to operation of the public land laws at 8 a.m. on October 23, 1981.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

September 14, 1981.

[FR Doc. 81-27515 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-84-M

Nevada County, Calif.; Conveyance of Public Land [CA 9417]

September 14, 1981.

Notice is hereby given that pursuant to sec. 203 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), the Cedar Ridge Building Materials Company has purchased by noncompetitive sale public land in Nevada County, California, described as:

Mount Diablo Meridian, California

T. 16 N., R. 8 E.,
Sec. 26, Lot 2.

Containing 0.03 acre.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to the Cedar Ridge Building Materials Company.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 81-27517 Filed 9-21-81; 8:45 am]

BILLING CODE 4319-84-M

Bureau of Reclamation

[INT-DES 81-37]

Anderson Ranch Powerplant Third Unit; Boise Project, Idaho; Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental statement on the proposed addition of a third generator in Anderson Ranch Dam on the South Fork of the Boise River in southwestern Idaho. Written comments may be submitted to the Regional Director by December 16, 1981.

Copies are available for inspection at the following locations:

Director, Office Environmental Affairs, Bureau of Reclamation, Department of the Interior, 18th & C Streets NW., Room 7622, Washington, DC 20240, Telephone: (202) 343-4991

Division of Management Support, General Services, Library Branch, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234-3019

Regional Director, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, ID 83724, Telephone: (208) 334-1209

Central Snake Projects Office, Bureau of Reclamation, 214 Broadway Avenue, Boise, ID 83702, Telephone: (208) 334-1460

Single copies of the statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in the project vicinity.

Dated: September 17, 1981.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 81-27514 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-09-M

Geological Survey

J. R. Simplot Co.; Smoky Canyon Mine; Availability of Draft Statement; Proposed Phosphate Mine and Slurry Pipeline, Caribou County, Idaho

AGENCY: U.S. Geological Survey.

ACTION: Notice of Availability of draft environmental impact statement on proposed surface phosphate mine and slurry pipeline.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the U.S. Geological Survey (USGS) and the U.S. Forest Service (FS), Caribou National Forest, have prepared a draft environmental impact statement (DEIS) on J. R. Simplot Company's proposed Smoky Canyon phosphate mine in Caribou County, Idaho.

The USGS is the responsible Agency for taking action on the approval of the mine plan and the FS is the responsible Agency for taking action on the issuance of special land-use permits for National Forest lands outside the leasehold. Because both Agencies have approval

actions to take with regard to this proposal, the statement was prepared under the joint leadership of the USGS and the Caribou National Forest.

The environmental impact statement evaluates the proposed actions and alternatives. Technical alternatives include alternative access routes, slurry pipelines routes, means of ore transportation, waste rock disposal sites, mining sequences, reclamation, mill and tailings pond sites, and powerline routing. Administrative alternatives include approval of the mining and reclamation plan, approval with stipulations, deferred action, and no action.

The proposed mine will be located about 10 miles west of Afton, Wyoming. It is anticipated that the major socioeconomic impacts from this mine will occur in Lincoln County, Wyoming. The Simplot proposal consists of surface mining 2 million tons of phosphate ore per year over a mine life of about 30 years, and a 25-mile slurry pipeline to transport the ore to Simplot's existing plant at Conda, Idaho. The mine is expected to disturb about 60 acres per year, with about 700 total acres to be disturbed by mining and associated activities at any one time. In addition, the proposal includes construction of 8 miles of electrical power lines, plant facilities, ore crushing, slurry preparation and pumping facilities, tailing ponds, and the upgrading of area access roads.

The draft environmental impact statement is available for public review at the following places:

U.S. Geological Survey Library, 1526 Cole Boulevard, Golden, Colorado 80401
U.S. Geological Survey Library, Room A100, National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092
U.S. Geological Survey Conservation Division, Federal Building, U.S. Courthouse, 250 South 4th Avenue, Suite 172, Pocatello, Idaho 83201
U.S. Forest Service, Caribou National Forest, Federal Building, 250 South 4th Avenue, Pocatello, Idaho 83201
U.S. Forest Service, Caribou National Forest, 420 East 2nd South, Soda Springs, Idaho 83276

Public Libraries

Soda Springs Public Library, 149 South Main, Soda Springs, Idaho 83276
Pocatello Public Library, 812 East Clark, Pocatello, Idaho 83201
Afton Branch Library, Afton, Wyoming 83110

A limited number of copies are available on request from the U.S. Forest Service, Caribou National Forest, P.O. Box 4189, 250 South 4th Avenue, Pocatello, Idaho 83201.

Written comments on the draft statement will be accepted for a period of 60 days subsequent to the filing with the Environmental Protection Agency. All substantive comments received will be considered in preparing the final environmetal statement on this proposal. Written comments should be addressed to either:

Mr. Barney Brunelle, District Mining Supervisor, U.S. Geological Survey, Suite 172, Federal Building, 250 South Fourth Avenue, Pocatello, Idaho 83201, Telephone: (208) 236-6860
Mr. Charles Hendricks, Forest Supervisor, Caribou National Forest, Suite 294, Federal Building, 250 South Fourth Avenue, Pocatello, Idaho 83201, Telephone: (202) 236-6700

Comments on the draft environmental impact statement are sought from industry, officials from all levels of Government, interested groups, and concerned citizens.

Public meetings will be held in Afton, Wyoming, on November 4, 1981, at 7 p.m., and in Soda Springs, Idaho, on November 5, 1981, at 7 p.m., to obtain comments on the draft environmental impact statement.

Oral comments at the meetings plus written comments will be used in developing the final environmental impact statement.

Dated: September 16, 1981.

Eddie R. Wyatt,

Acting Assistant Director for Resource Programs.

[FR Doc. 81-27469 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 11, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by October 7, 1981.

Carol Shull,

Acting Keeper of the National Register.

COLORADO

Eagle County

Basalt vicinity, *Archeological Site 5EA484*, NW of Basalt.

Teller County

Florissant vicinity, *Archeological Site 5TL4 (hornbek House)* SR 1

OHIO

Perry County

New Lexington, *Perry County Courthouse and Jail*, Main and Brown Sts.

PENNSYLVANIA

Allegheny County

Carnegie, *Carnegie, Andrew, Free Library*, 300 Beechwood Ave.

Bedford County

New Enterprise, *New Enterprise Public School*, Off PA 869.

Chester County

West Chester, *West Chester State College Quadrangle Historic District*, Bounded by S. High and S. Church Sts., Rosedale and College Aves.

Fayette County

Connellsville, *Carnegie Free Library*, S. Pittsburgh St.

UTAH

Grand County

Moab vicinity, *Pinhook Battleground*, E. of Moab.

[FR Doc. 81-27317 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 18, 1981. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by October 7, 1981.

Carol Shull,

Acting Keeper of the National Register.

MASSACHUSETTS

Norfolk County

Walpole, *Walpole Town Hall*, Main St.

[FR Doc. 81-27805 Filed 9-21-81; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Section 5b Application No. 11]

Canadian Railroads—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time for filing comments.

SUMMARY: By notice of filing of proposed agreement and request for comment published in the **Federal Register** on August 21, 1981 (46 FR 42536), the Commission sought comments on the application for approval of a ratemaking agreement under 49 U.S.C. 10706(a) filed by the Canadian National Railway Company and Canadian Pacific Limited. Comments were due September 21, 1981, 30 days from **Federal Register** publication. The Western Railroads filed a petition requesting a 60-day extension of time for filing comments to November 20, 1981. The petition shall be granted in part. There will be a 45-day extension to November 5, 1981, for interested persons to file comments. This extension is necessary since many new and complex issues are involved in this proceeding. A longer extension is not justified, however, since we have stated that this proceeding will be handled expeditiously.

DATES: All comments are now due November 5, 1981.

ADDRESS: An original and fifteen copies of comments should be sent to: Interstate Commerce Commission, Room 5356, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275–7656.

Decided: September 16, 1981.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27494 Filed 9-21-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: September 15, 1981.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.8-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 3.1-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, or the 2.0-percent surcharge for United Parcel Service. However, the bus carrier surcharge is ordered to be reduced to 6.6-percent.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m., September 18, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham, and Gilliam.

Agatha L. Mergenovich,

Secretary.

September 14, 1981.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)

Jan. 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

Sept. 14, 1981 ..... 130.4¢

	Transportation performed by—			
	Owner-operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.8	3.1	6.6	[3] 2.8
Percent surcharge allowed	18.0	3.1	6.6	[4] 2.0

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-27497 Filed 9-21-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 120)B]

Chicago and North Western Transportation Company—Abandonment—Between Milepost 217.3 Near the Site of a Switch Connection Serving Omaha Cold Storage, Inc. and Rogerton, IA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated September 14, 1981, the Commission Review Board Number 3, found that the public convenience and necessity require or permit abandonment by Chicago and North Western Transportation Company of its line of railroad between milepost 217.3 near the site of a switch connection serving a shipper, Omaha Cold Storage, Inc., and Rogerton, IA in Webster and Humboldt Counties, IA, a total distance of 9.7 miles subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) if a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of the abandonment certificate 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, the abandonment certificate will be issued. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27498 Filed 9-21-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29729F]

Denver and Rio Grande Western Railroad Co.—Acquisition and Operation—Near Craig in Moffat County, CO

The Denver and Rio Grande Western Railroad Company (Applicant), Post Office Box 5482, Denver, CO 80217, represented by Samuel R. Freeman, Vice President and General Counsel, and John S. Walker, General Solicitor, The Denver and Rio Grande Western Railroad Company, P.O. Box 5482, Denver, CO 80217, hereby gives notice that on the 1st day of September, 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 the acquisition and operation of a line of railroad presently owned by Colorado-Ute Electric Association, Inc. between Craig and Ute Junction a distance of 1.05 miles in Moffat County, CO.

Applicant proposes to acquire an existing line of railroad, 1.05 miles in length, extending from the end of its line at Craig to a point called Ute Junction on the Colorado-Ute Spur (over which Applicant has lease rights and operating rights) near Craig, CO. Applicant is presently operating over said line by contract and, upon approval of its application, proposes to acquire and operate said line as a common carrier by railroad.

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 49 U.S.C. 10901 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 first publication 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. 81-27495 Filed 9-21-81; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

September 16, 1981.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

FSA No. 43936, Burlington Northern Railroad by H.H. Kirchoff, Agent carload rates on sugar, beet or cane, in bulk, from Bingham, MN., and Wahpeton, ND., or from East Grand Forks, Wilds, MN., and Drayton, Redco, ND., to St. Joseph, MO., in Tariff ICC KHH 3605-R, to become effective October 28, 1981. Grounds for relief; Market Competition and rate relationship.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27496 Filed 9-21-81; 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 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 a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later 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.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-3-171

Decided: September 15, 1981.

MC 158134, filed September 10, 1981. Applicant: NELSON GALLOWAY, 873 Mill, Leitchfield, KY 42754. Representative: (same as above) Transporting *food and other edible products and byproducts intended for human consumption* (except alcholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OPY-4-369

Decided: September 11, 1981.

MC 158057, filed September 3, 1981. Applicant: KOPAC INTERNATIONAL CORPORATION, P.O. Box 6874, Bothan, AL 36302. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006, (202) 833-8884. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

[FR Doc. 81-27409 Filed 9-21-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; 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 a public need for the proposed operations and that it is fit, willling, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later 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 entrance 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".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-175

Decided: September 14, 1981.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 29573 (Sub-7), filed August 31, 1981. Applicant: DONALD S. WEBB, d.b.a. WEBB-TRUCK-IT, 855 Wood Ave., Loves Park, IL 61111. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273-1003. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Hartman Beverage Co., Inc., of Freeport, IL, and (b) B. B. Distributors, Inc., of Sycamore, IL.

MC 48632 (Sub-17), filed August 25, 1981. Applicant: WILLIG FREIGHT LINES, 123 Loomis St., San Francisco, CA 94124. Representative: Robert L. La Vine, 415 Hearst Bldg., San Frncisco, CA 94103, 415-981-6677. Transporting *general commodities* (except classes A and B explosives) (I) *Over regular routes* (1) Between Las Vegas, NV, and Junction Insterstate Hwy 15 and CA Hwy 30, over Interstate Hwy 15, serving all intermediate points, and serving the off-route point of Nellis Air Force Base, NV, (2) Between Weimar, CA and Fernley, NV, over Interstate Hwy 80, serving all intermediate points, (3) Between El Dorado Hills, CA, and Fallon, NV, over U.S. Hwy 50, serving all intermediate points, and serving the off-route point of Fallon Naval Air Station, NV, (4) Between Reno and Carson City, NV, over U.S. Hwy 395, serving all intermediate points, (5) Between Junction U.S. Hwy 395 and NV Hwy 17, near Reno Hot Springs, and Junction NV Hwy 17 and U.S. Hwy 50, near Payton, NV, over NV Hwy 17, serving all intermediate points, (6) Between Fernley, NV and Junction Alternate U.S. Hwy 50 and U.S. Hwy 50, over Alternate U.S. Hwy 50, serving all intermediate points, (7) Between Las Vegas and Boulder City, NV, over U.S. Hwy 93, serving all intermediate points, (8) Between Truckee and Junction CA Hwy 89 and U.S. Hwy 50, near Tahoe Valley, CA, over CA Hwy 89, serving all intermediate points, (9) Between Tahoe City, CA and Junction NV Hwy 28 and U.S. Hwy 50, near Glenbrook, NV: From Tahoe City, CA over CA Hwy 28 to the CA-NV State Line, then over NV Hwy 28 to Junction NV Hwy 28 and U.S. Hwy 50, near Glenbrook, NV, and return over the same route, serving all intermediate points, (10) Between Yuba City and Red Bluff, CA, over CA Hwy 99, serving all intermediate points, (11) Between Arbuckle and Redding, CA, over Interstate Hwy 5, serving all intermediate points, (12) Between Tuscon and Nogales, AZ, over Interstate Hwy 19, serving all intermediate points, (13) Between Carson City, NV and Junction U.S. Hwy 395 and Interstate Hwy 15, over U.S. Hwy 395, serving all intermediate points, (14) Between Junction Interstate Hwy 5 and CA Hwy 14, near San Fernando, CA, and Junction CA Hwy 14 and U.S. Hwy 395, near Inyokern, CA, over CA Hwy 14, serving all intermediate points, (15) Between Needles, CA and Fallon, NV, over U.S. Hwy 95, serving all intermediate points, (16) Between Wickenburg, AZ and Boulder City, NV, over U.S. Hwy 93, serving all intermediate points, and (17) Between Phoenix and Wickenburg, AZ, over U.S. Hwy 60, serving all intermediate points, (II) *Over irregular*

routes, Between points in CA, AZ, and NV.

Note.—Applicant intends to tack this authority with its existing authority.

MC 108053 (Sub-185), filed September 4, 1981. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., 1520 West 23rd St., Fremont, NE 68025. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601 (312) 332–5106. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of aircraft, between points in CA, UT, and MO.

MC 109173 (Sub-6), filed August 27, 1981. Applicant: MICHIGAN TRAILWAYS, INC., d.b.a. DELTA VALLEY TOURS, 12154 N. Saginaw Rd., Clio, MI 48420. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *passengers and their baggage in the same vehicle with passengers* in one-way or roundtrip special and charter operations, between points in FL, on the one hand, and, on the other, points in the U.S.

MC 129712 (Sub-57), filed September 4, 1981. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326, 404–237–6472. Transporting *house trailer undercarriages, wheels, axles, tires, and parts*, between points in the U.S., under continuing contract(s) with All American Wheel & Axle Co., Inc., of Largo, FL.

MC 134453 (Sub-26), filed August 31, 1981. Applicant: STERNLITE TRANSPORTATION COMPANY, Winsted, MN 55395. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. (612) 457–6889. Transporting *metal products*, between points in the U.S., under continuing contract(s) with V.A.W. of American, Inc., of Ellenville, NY.

MC 142723 (Sub-7), filed August 31, 1981. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219–2383. (412) 471–2800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Shasta Beverages, Inc., of Columbus, OH.

MC 144003 (Sub-4), filed August 28, 1981. Applicant: TIEDT TRUCKING CO., Lemont and Bluff Rd., Lemont, IL 60439. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *metal products*, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, MI, OH, and PA.

MC 144293 (sub-1), filed August 31, 1981. Applicant: DUANE McFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Thomas J. Beener, 67 Wall St., New York, NY 10005, 212–269–2540. Transporting *food and related products*, between Memphis, TN, and points in Gregg County, TX, on the one hand, and, on the other, points in IA, IL, MN, ND, SD, MI, OH and WI.

MC 146703 (Sub-32), filed August 21, 1981. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: John P. Zumwalt (same address as applicant) 816–356–3212. Transporting *chemicals and related products*, between points in the U.S. Condition: To the extent this certificate authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 150623 (Sub-1), filed August 24, 1981. Applicant: C.M.C. TRANSPORT, INC., Rural Route No. 3, Tipton, IN 46072. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846–6655. Transporting *petroleum, natural gas and their products*, between points in the U.S., under continuing contract(s) with Mobile Oil Corporation, of Fairfax, VA. Condition: To the extent that this Certificate authorizes transportation of classes A and B explosives, it shall be limited in term to a period expiring 5 years from its date of issuance.

MC 151012 (Sub-2), filed September 3, 1981. Applicant: O.W.L. TRANSPORT, INC., 157 Carolyn Lane, Nicholasville, KY 40356. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, 502–223–8244. Transporting *iron and steel articles* and *furniture component parts*, between the facilities used by Leggett & Platt, Inc., and its affiliates at those points in the U.S., in and east of MN, IA, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, NE, KS, OK, and TX.

MC 151993 (Sub-2), filed August 28, 1981. Applicant: FRANK SMITH d.b.a. FRANK SMITH TRUCKING, Route 1, Box 3, Marble Falls, TX 78654. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767, 512–478–9808. Transporting *such commodities* as are dealt in or used by manufacturers, processors, or distributors of paints, highway marking materials, and coatings, industrial coatings, highway safety products and equipment and highway maintenance products and equipment, between points in the U.S., under continuing contract(s) with Prismo Universal Corporation, of Parisppany, NJ.

MC 152543 (Sub-3), filed August 31, 1981. Applicant: J & S TRANSPORTATION, INC., 1015 North St, Conyers, GA 30207. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, 404–477–1525. Transporting *chemicals and related products*, between points in Barrow County, GA, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MI, MO, MS, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV. Condition: To the extent this certificate authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 154912, filed September 4, 1981. Applicant: MOTRUX TRANSPORTATION, LTD., 2345 Douglas Rd., Burnaby, B.C., Canada V5C 5A9. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104 (206) 622–3220. Transporting *farm products*, between points in the U.S., under continuing contract(s) with Wolfkill Feed and Fertilizer Corp., of Lynden, WA.

MC 155913 (Sub-1), filed August 24, 1981. Applicant: SELDEN AND SPENCER, INC., Route 661, Chance, VA 22439. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3609. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Hoover Universal, Inc., Wood Preserving Division, of Milford, VA, and (b) Bristol Corporation, Bristol Pipe Division, of Leola, PA.

MC 157112, filed September 3, 1981. Applicant: SIMONICH TRUCKING, 3455 15th Ave. South, Great Falls, MT 59405. Representative: F. B. Simonich (same address as applicant), (406) 761–0699. Transporting *flour and grain*, between Great Falls, MT, on the one hand, and, on the other, points in CA.

MC 157523, filed September 3, 1981. Applicant: REUBEN A. BRUE, d.b.a. R. A. BRUE, P.O. Box 458, Ottawa, IL 61350. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, (312) 332–5106. Transporting (1) *meats, meat products, and meat by-products*, between points in Cook and Kane Counties, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *fertilizers and chemicals*, between points in IN, MI, IA, IL, OH, TN, MO, WI, and MN.

MC 157903 (Sub-1), filed August 28, 1981. Applicant: WICO EXPRESS, INC., P.O. Box 2277, Sandusky, OH 44870. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *machinery, chemicals and related products, transportation equipment, petroleum or coal products, clay, concrete, glass or stone products and metal products,* between points in Maricopa County, AZ, Kern and San Diego Counties, CA, Polk County, FL, Atlanta, GA, Chicago, IL, St. Paul, MN, St. Louis, MO, Jefferson County, MO, Buffalo, NY, Erie, Stark and Lucas Counties, OH, Cleveland and Columbus, OH, Dauphine and York Counties, PA, Gregg and Dallas Counties, TX, Pierce County, WA, and Walworth and Milwaukee Counties, WI, on the one hand, and, on the other, points in the U.S. Condition: To the extent this certificate authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

MC 157932, filed August 27, 1981. Applicant: ROBERT VAN CAMPEN TRUCKING, INC., R.D. #2, Hudson, NY 12534. Representative: Mary Elizabeth Toomey, 60 State St., Albany, NY 12207, (518) 449–3100. Transporting (1) *flour* and *feed ingredients,* between points in Columbia County, NY, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, RI, VT, ME, PA, MD, OH, VA, DE, and IL, and (2) *lime and white crushed stone,* between points in Litchfield County, CT, on the one hand, and, on the other, points in CT, ME, MA, NJ, NY, PA, RI, VT, NH, OH, MD, DE, IL, WV, NC, SC, GA, FL, AL, TN, KY, IN, IA, MO, WI, MN, NE, and KS.

Volume No. OPY–3–170

Decided: September 15, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 2484 (Sub-60), filed September 9, 1981. Applicant: E & L TRANSPORT COMPANY, 23420 Ford Road, Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 West Long Lake Road, Ste. 102, Bloomfield Hills, MI 48013 (313) 645–9600. Transporting *motor vehicles,* between points in the U.S.

MC 13845 (Sub-9), filed September 4, 1981. Applicant: WILLIAM CARL & JAMES FRANKLIN RUSSELL, d.b.a. FRANK RUSSELL & SON, 401 S. Ida St., West Frankfort, IL 62896. Representative: William C. Russell (same address as applicant) (618) 932–3177. Transporting *machinery, self-propelled vehicles, mine products,* and *mining equipment,* between points in IL, IN, KY, MO, OH, PA, VA, and WV, on the one hand, and, on the other, points in the U.S.

MC 42605 (Sub-7), filed September 2, 1981. Applicant: CARL H. BETZ, Rural Delivery #1, Orefield, PA 18069. Representative: Paul B. Kemmerer, 1620 N. 19th St., Allentown, PA 18104 (215) 432–7964. Transporting (1) *chemicals and related products,* (a) between points in Burlington, Middlesex, and Sussex Counties, NJ, on the one hand, and, on the other, points in PA, and (b) between points in Lehigh County, PA, on the one hand, and, on the other, points in ME, (2) *ores and minerals,* (a) between points in Sussex County, NJ, on the one hand, and, on the other, points, in PA, DE, MD, and NY, and (b) between points in Carbon and Lehigh Counties, PA, on the one hand, and, on the other, points in NJ, NY, DE, and MD, (3) *lumber and wool products, metal products, machinery,* and *transportation equipment,* (a) between points in PA, NY, DE, and MD, on the one hand, and, on the other, points in Sussex County, NJ, and (b) between points in NJ, NY, DE, and MD, on the one hand, and, on the other, points in Lehigh County, PA, (4) *hazardous Materials,* between points in Middlesex County, NJ, on the one hand, and, on the other, points in PA, NY, and OH, and (5) *waste or scrap materials,* between points in Bristol County, MA, on the one hand, and, on the other, points in NJ, PA, and DE.

MC 135185 (Sub-64), filed September 8, 1981. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, South bend, IN 46624. Representative: Jack B. Wolfe, 665 Capitol Life Center, Denver, CO 80203 (303) 839–5856. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 139085 (Sub-1), filed September 8, 1981. Applicant: ROSS BROS. TRANSPORTATION, INC., POB 103, Circle MT 59215. Representative: William E. Seliski, No. 2 Commerce POB 8255, Missoula, MT 59807 (406) 543–8369. Transporting (1) *such commodities* as are dealt in by lumber yards and farm supply stores, between points in WA, OR, ID, and MT on the one hand, and, on the other, points in AZ, CA, CO, IL, IA, KS, MN, NO, NE, ND, OH, OK, SD, TX, UT, WI and WY; (2) *food and related products,* between points in WA, OR, and ID, on the one hand, and, on the other, points in MT, (3) *such commodities* as are dealt in by tire dealers, (1) between points in Summit County, OH and Shawnee County, KS, on the one hand, and, on the other, points in Yellowstone and Dawson County, MT, and (2) between points in Yellowstone County, MT, on the one hand, and, on the other, points in Natrona County, WY and King County, WA.

MC 141865 (Sub-12), filed September 9, 1981. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Dr., Grand Prairie, TX 75051. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104, (817) 332–4415. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paint, chemicals and related articles, between points in the U.S., under continuing contract(s) with Sherwin-Williams Co., of Garland, TX.

MC 144765 (Sub-3), filed September 8, 1981. Applicant: WATERVILLE-CASCADE TRUCKING, INC., P.O. Box 1686, Wenatchee, WA 98801. Representative: Robert G. Gleason, 1127 10th E., Seattle, WA 98102, (206) 325–8875. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 145154 (Sub-5), filed September 9, 1981. Applicant: YOUNG'S TRANSPORTATION CO., a corporation, P.O. Box 7200, 1230 West 17th St., Houston, TX 77008. Representative: Eric Meierhoefer, 1029 Vermont Ave., NW., Suite 1000, Washington, DC 20005, (202) 347–9332. Transporting (1) *wooden, metal, and glass windows and doors,* between points in Champaign County, IL, on the one hand, and on the other, points in the U.S., and (2) *such commodities* as are dealt in or used by manufacturers and distributors of brooms, brushes, and bristled products, between points in Douglas County, IL, on the one hand, and, on the other, points in the U.S.

MC 145235 (Sub-12), filed September 8, 1981. Applicant: DUTCH MAID PRODUCE, INC., Route 2, Willard, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives), between the facilities of General Box Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 145614 (Sub-5), filed September 9, 1981. Applicant: TRIPLE A TRANSPORT, INC., 193 Main St., Springvale, ME 04083. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773–5651. Transporting *food and related products,* between points in ME and CO, on the one hand, and, on the other, points in the U.S.

MC 145734 (Sub-16), filed September 1, 1981. Applicant: BD TRUCKING CO., a corporation, P.O. Box 817, Ripon, CA 95366. Representative: James H. Gulseth, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778. Transporting (1) *machinery*, (2) *forest products*, (3) *lumber and wood products*, (4) *commodities which because of their size or weight require the use of special handling or equipment*, (5) *metal products*, (6) *clay, concrete, glass or stone products*, (7) *rubber and plastic products*, and (8) *waste or scrap materials*, between points in the U.S.

MC 146055 (Sub-19), filed September 9, 1981. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting (1) *food and related products*, (2) *chemicals and related products*, (3) *paper and related products*, (4) *furniture and fixtures*, and (5) *janitorial and maintenance supplies*, between points in SD, NE, KS, IA, MO, and IL, on the one hand, and, on the other, points in the U.S.

MC 146465 (Sub-13), filed September 8, 1981. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 877, Cleveland, GA 30528. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309, (404) 892–8020. Transporting *metal products*, between points in Boyd County, KY, on the one hand, and, on the other, points in AL, GA, NC, and SC.

MC 148665 (Sub-4), filed September 8, 1981. Applicant: CFS CONTINENTAL TRANSPORTATION COMPANY, 2550 North Clybourn Ave., Chicago, IL 60614. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contracts with Continental-Topper, Inc., of Eighty-Four, PA, Sugar Food Corporation, of Columbus, OH, Continental Big Red, Inc., of Fargo, ND, Continental-Crystal, Inc., of Duluth, MN, Continental-South Dakota, of Sioux Falls, SD, Continental-Atlanta, Inc., of Doraville, GA, Continental Coffee Company of Florida, of Miami, FL, Continental-Institutional, Inc., of Macon, GA, Continental-Arctic, Inc., of Renton, WA, Continental-Los Angeles, Inc., of Vernon, CA, CFS Continental-Phoenix, Inc., of Phoenix, AZ, Houston Foods, Inc., of Chicago, IL, Shari Candies, Inc., of Mankato, MN, Melster Candies, of Cambridge, WI, Continental-Central Florida, Inc., of Sanford, FL, Continental-Kiel, Inc., of Billings, MT, Continental-San Diego, Inc., of San Diego, CA, Barg & Foster, of Shorewood, WI, Harold Freund Baking Company (San Jose), of San Jose, CA, CFS Continental-Fresno, Inc., of Fresno, CA, CCC Utah, Inc., of Salt Lake City, UT, Harold Freund Baking Company, City of Industrial, CA, Harold Freund Baking Company (Florida), of St. Petersburg, FL, and Continental-Avard, Inc., of Union City, CA.

MC 149124 (Sub-2), filed September 8, 1981. Applicant: HEDRICK SALES AND ENGINEERING, INC., 3415 Ridge Rd., Cheyenne, WY 28001. Representative: Herman J. Hedrick, (same address as applicant), (307) 635–5491. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Tortilla Manufacturing and Supply, Inc., of Cheyenne, WY.

MC 149484 (Sub-3), filed September 9, 1981. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Guardian Industries Corp., of Carleton, MI.

MC 149484 (Sub-4), filed September 9, 1981. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *building materials*, between points in the U.S., under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

MC 150865 (Sub-7), filed September 8, 1981. Applicant: ATLANTIC & WESTERN TRANSPORTATION CO., INC., 3934 Thurman Rd., Forest Park, GA 30051. Representative: Ronald J. Turner (same address as applicant), (404) 363–1200. Transporting *general commodities* (except classes A and B explosives), between points in and east of ND, SD, NE, KS, OK and TX.

MC 150954 (Sub-38), filed September 9, 1981. Applicant: TRAVIS TRANSPORTATION, INC., 4429 Rittiman, P.O. Box 39430, San Antonio, TX 78218. Representative: Rudy Opperman (same address as applicant), (512) 824–9481. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Teletype Corporation of Little Rock, AR.

MC 152265, filed September 8, 1981. Applicant: STEVE BROWN PRODUCE CO., INC., Route 1, Box 112, Taylorsville, NC 28618. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., 301 S. McDowell St., Charlotte, NC 28204, (704) 372–6730. Transporting *plastic products*, between points in Caldwell County, NC, and Madison County, IL, on the one hand, and, on the other, those points in the U.S. in and east of NM, UT, and ID.

MC 153714 (Sub-2), filed September 9, 1981. Applicant: FREDDY'S TRUCKING, 2200 S.E. 45th No. 49, Hillsboro, OR 97123. Representative: William A. Murray (same address as applicant), (503) 640–8303. Transporting *malt beverages and wine*, between points in Los Angeles and Solano Counties, CA, on the one hand, and, on the other, points in Wasco and Columbia Counties, OR.

MC 153894, filed September 9, 1981. Applicant: JOYCE STRATT MITCHELL, d.b.a. JOYCE STRATT MITCHELL TRUCKING COMPANY, 2040 Rancho Dr., Riverside, CA 92507. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212, (213) 277–2323. Transporting (1) *such commodities* as are dealt in or used by manufacturers of electrical equipment, electrical products, energy systems, and plastic products, and (2) *aircraft equipment*, between points in the U.S.

MC 157305 (Sub-1), filed September 8, 1981. Applicant: FREEDOM EXPRESS, INC., Battleship Parkway, P.O. Box 851, Spanish Fort, AL 36527. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *metal containers and bottle caps*, between points in the U.S., under continuing contract(s) with Crown, Cork & Seal Company, Inc., of Philadelphia, PA.

MC 157325, filed September 9, 1981. Applicant: K.C. HAULERS, 1283 County Rd., Durango, CO 81301. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202, (303) 892–6700. Transporting *coal and coal products*, between points in the U.S., under continuing contract(s) with National King Coal, Inc., of Durango, CO.

MC 157415 (Sub-1), filed September 8, 1981. Applicant: ROY DEANGELO & SONS TRUCKING CORP., 1416 Hylan Blvd., Staten Island, NY 10305. Representative: Roy DeAngelo, Jr., 4188 Amboy Rd., Staten Island, NY 10308, (212) 948–4393. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Inter State Express, Inc., of Brooklyn, NY.

MC 158094, filed September 8, 1981. Applicant: CHARLES P. FISHER, JR., d.b.a. BLUE CHIP HORSE TRANSPORTATION, 218 Bedford Rd., Carlisle, MA 01741. Representative: Charles P. fisher, Jr. (same address as applicant), (617) 369–7755. Transporting *non exempt livestock, personal effects of attendants, supplies and equipment* used in the care, transportation, racing, and exhibition of non exempt livestock, between points in the U.S.

MC 158114, filed September 8, 1981. Applicant: MERLIN SHIELDS, d.b.a. MERLIN SHIELDS TRUCKING, 6390 W. Victory Rd., Boise, ID 83709. Representative: Merlin Shields (same address as applicant), (208) 362–2696. Transporting *pressure treated timber products, pre-cut log homes and building materials*, between points in the U.S., under continuing contract(s) with Pressure Treated Timber Company, Inc. of Boise, ID.

MC 158124, filed September 8, 1981. Applicant: CHARLES D. GOODWIN, INC., P.O. Box 1006, Sanford, NC 27330. Representative: Archie W. Andrews, 617 F Lynrock Terrace, Eden, NC 27288, (919) 627–0555. Transporting *such commodities* as are dealt in or used by manufacturers of hardware, between points in CA, CT, GA, NC, and TN, on the one hand, and, on the other, points in the U.S.

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Decided: September 14, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 63417 (sub-311), filed September 8, 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 Carter and Washington Counties, TN, on the one hand, and, on the other, points in AZ, CA, CO, CT, ID, IA, MA, MN, MT, ME, ND, NE, NH, NM, NV, OR, RI, SD, UT, VT, WA, WI, and WY.

MC 75567 (Sub-7), filed September 1, 1981. Applicant: SHAW WAREHOUSE CO., INC., 2700 Second Avenue, South Birmingham, AL 35233. Representative: James W. Porter II, 1725–8 City Federal Bldg., Birmingham, AL 35203, (205) 322–1744. Transporting *food and related products*, between points in AL.

Note.—Applicant intends to interline with other carriers at Birmingham and Montgomery, AL.

MC 99117 (Sub-6), filed September 8, 1981. Applicant: T.H. RYAN CARTAGE CO., 111 S. Seventh Ave., Maywood, IL 60153. Representative: William D. Brejcha, 10 South LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, MO, OH, PA, and WI.

MC 123057 (Sub-18), filed September 8, 1981. Applicant: HO–RO TRUCKING CO., INC., P.O. Box 487, Woodbridge, NJ 07095. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting (1) *building and roofing materials*, (2) *paper and paper products*, between points in Chippewa County, WI and Chicago, Heights, IL, on the one hand, and, on the other, points in NJ and NY.

MC 134547 (Sub-11), filed September 3, 1981. Applicant: BILBO TRANSPORTS, INC., 2722 Singleton Blvd., Dallas, TX 75212. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768, (512) 476–6083. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Overhead Door Corporation, of Dallas, TX.

MC 141237 (Sub-1), filed September 8, 1981. Applicant: LOREN J. SLAGHT, P.O. Box 59, Prairie du Chein, WI 53821. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *ores and minerals*, between points in Crawford County, WI, on the one hand, and, on the other, points in IL, IA, MN, and WI.

MC 143627 (Sub-7), filed September 8, 1981. Applicant: FITZSIMMONS TRUCKING, INC., P.O. Box 128, Weseca, MN 56093. Representative: William L. Libby, 8214 W. 34½ St., St. Louis Park, MN 55426, (612) 938–1752. Transporting (1) *machinery*, and (2) *metal products*, between points in Waseca County, MN, on the one hand, and, on the other, points in the U.S.

MC 146447 (Sub-10), filed September 4, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *metal products*, between points in the U.S., under continuing contract(s) with the Bilco Company, of New Haven, CT.

MC 146447 (Sub-11), filed September 4, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *toys and hobby craft*, between points in the U.S., under continuing contract(s) with Kay/Bee Toy & Hobby Shops, Inc., of Lee, MA.

MC 146447 (Sub-12), filed September 8, 1981. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Westvaco Corporation, of New York, NY.

MC 147547 (Sub-20), filed September 3, 1981. Applicant: R & D TRUCKING COMPANY, INC., 4401 Mars Hill Rd., Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219, (615) 244–8101. Transporting *general commodities* (except classes A and B explosives), between points in AL north of Interstate Hwy 20, on the one hand, and, on the other, points in the U.S.

MC 148647 (Sub-30), filed September 4, 1981. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 North 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 Giant Foods, Inc., of Landover, MD.

MC 149457 (Sub-3), filed September 8, 1981. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Ave., Milwaukee, WI 53209. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *such commodities* as are dealt in or used by department stores, between points in the U.S.

MC 149157 (Sub-7), filed September 8, 1981. Applicant: STYLE CRAFT TRANSPORT, INC., Hwy 71 So., Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502, (712) 323–9124. Transporting *such commodities* as are dealt in or used by home furnishings outlets, between points in the U.S., under continuing contract(s) with The McGregor Co., of Marshalltown, IA.

MC 149237 (Sub-4), filed September 8, 1981. Applicant: WATSON TRUCKING COMPANY, a corporation, 8412 Lou Court, Louisville, KY 40216. Representative: William P. Whitney, Jr., P.O. Box H, Bardstown, KY 40004, (502) 348–5159. Transporting *such commodities* as are dealt in or used by drug, department, and grocery stores, between points in Clark County, IN, on

the one hand, and, on the other, points in GA.

MC 149497 (Sub-14), filed September 4, 1981. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant), (715) 359–2907. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Marsan Warehousing and Transportation, of Jamesburg, NJ.

MC 154817 (Sub-2), filed September 3, 1981. Applicant: COLE & SONS TRUCKING, INC., 2430 S. Main St., Akron, OH 44319. Representative: William F. Stamm, 441 Wolf Ledges, Suite 400, Akron, OH 44311, (216) 762–0765. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in Warren County, PA, on the one hand, and, on the other, points in the U.S.

MC 156357, filed September 3, 1981. Applicant: KIM L. OLSON d.b.a. NORTH STAR SUPPLY CO., 2148 Bunker Lake Blvd., Anoka, MN 55303. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102, (612) 227–7731. Transporting *chemicals and related products, clothing and textile mill products, dry cleaning and laundry supplies, home care products, personal care products, pulp, paper and related products, and materials, equipment and supplies used in the manufacture, sale and distribution thereof*, between points in IA, IL, IN, MI, MN, MO, ND, OH, SD and WI.

MC 158117, filed September 9, 1981. Applicant: DEAN HOLT d.b.a. NELLIS AUTO WRECKING, 4995 Cooper Sage, Las Vegas, NV 89115. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5649. Transporting *transportation equipment*, between points in Clark County, NV, on the one hand, and, on the other, points in CA, AZ, and UT.

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Decided: September 11, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–567, filed September 2, 1981. Applicant: CF FORWARDING, INC., 175 Linfield Dr., Menlo Park, CA 94025. Representative: E. V. Taylor, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the U.S.

MC 1117 (Sub-37), filed September 3, 1981. Applicant: M.G.M. TRANSPORT CORP., 70 Maltese Dr., Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048–0640, (212) 466–0220. Transporting *furniture and fixtures*, between points in NC, VA, SC, GA, and TN, on the one hand, and, on the other, points in the U.S.

MC 146807 (Sub-32), filed August 10, 1981, previously noticed in the Federal Register issue of August 28, 1981, and republished this issue. Applicant: S n W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Paul Seleski (same address as applicant), (717) 735–0188. Transporting *plastic and plastic products*, between points in NJ, PA, IN, TN, IL, KY, OH, MO, VA, WV, MD, NC, SC, AL, FL, LA, TX, OK, IA, CO, NY, and CA.

Note.—The purpose of this republication is to add the state of TX to the territorial description.

MC 152117 (Sub-2), filed August 24, 1981. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 824 27th Ave. SW., Cedar Rapids, IA 52404. Representative: Virginia A. Wilson (same address as applicant), (319) 366–0347. Transport (1) *food and related products* between points in the United States (excluding AK & HI) on the one hand, and, on the other, points in IA, IL, IN, MN, MO, NE, KS, ND, SD, and WI. (2) *Rubber and plastic products*, between points in Contra Costa County, CA, on the one hand, and, on the other, points in the U.S., and (3) *pulp, paper and related products, packing materials and supplies*, between Chicago, IL and Indianapolis IN, on the one hand, and, on the other, points in Clinton County, IA.

MC 158047, filed August 31, 1981. Applicant: IKE ESSICK, P.O. Box 95, Welcome, NC 27374. Representative: F. Kent Burns, P.O. Box 2479, Raleigh, NC 27602, (919) 828–2421. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Gwyn Distributing Company, Inc., of Marion, VA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-27500 Filed 9-21-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 166]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 16, 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 issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Spom, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 682 (Sub-29)X, filed September 3, 1981. Applicant: BURNHAM VAN SERVICE, INC., P.O. Box 7966, Columbus, GA 31908. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-No. 26X certificate to broaden the commodity description in part (1) from "household goods, as defined by the Commission" to "household goods and furniture and fixtures" in its authority to operate between points in the U.S. Sub-No. 26X superseded applicant's Sub-Nos. 11 and 12F.

MC 34027 (Sub-20)X, filed September 2, 1981. Applicant: GEETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. Applicant seeks to remove restrictions in its lead and Sub. Nos. 4, 5, 7, 8, 11F, and 13F and 15F certificates to (1) broaden the commodity description from general commodities with exceptions to "general commodities (except classes A and B explosives)" in Sub Nos. 4, 5 and 8; (2) remove the commodity in bulk restrictions in Sub. Nos. 13F and 15F; replace one-way with radial authority in Sub. Nos. 7 and 11F; remove the restrictions against serving intermediate

points to allow service to all intermediate points in connection with its regular route operations in lead and Sub. Nos. 4 and 5; (3) broaden the commodity descriptions from rolling window screens, venetian blinds, wood folding doors and casement or multi-purpose windows to "metal products, furniture and fixtures, and lumber and wood products" in lead; from tires and tubes to "rubber and plastic products" in Sub. Nos. 7 and 11F; from wheels to "transportation equipment" in Sub. No. 11; from part (1) wood windows, sliding glass doors, wood folding doors and partitions to "metal products, lumber and wood products, and furniture and fixtures" in Sub. No. 13F; and, from part (1) millwork and part (2) sliding glass doors to "metal products, and lumber and wood products" in Sub. No. 15; and, (4) replace city-wide with countywide authority; Oklahoma, Canadian, and Cleveland, Counties, OK for Oklahoma City, in Sub. No. 7; Hamilton, Greene, Hancock and Montgomery Counties, OH and Boone, Kenton and Campbell Counties, KY for Cincinnati, Dayton and Findley, OH in Sub. No. 7; Marion and Mahaska Counties, IA for Pella, IA in Subs. 7, 11, 13, and 15; Shelby, Fayette and Tipton Counties, TN and Tunica and De Soto Counties, MS and Crittenden County, AR for Memphis, TN in Sub. No. 11; and Median, Summitt and Portage Counties, OH for Akron, OH in Sub. No. 11F; and (4) remove restriction against the transportation of shipments originating at and destined to named points in Sub. No. 7.

MC 61620 (Sub-19)X, filed September 3, 1981. Applicant: M & G TRANSPORTATION CO., INC., Route 3, Box 234, Gloucester, VA 23061. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions in its lead and Sub-Nos. 15F and 18F certificates to (1) broaden the commodity descriptions to "general commodities, except class A and B explosives" from general commodities with various exceptions; "food and related products" from seafood, canned goods, apples, fruit, and feed; "farm products" from livestock, farm produce, poultry and eggs, agricultural commodities and cut flowers; "rubber and plastic products, metal products, lumber and wood products" from barrels; "furniture and fixtures" from new and second hand furniture; "such commodities as are dealt in by hardware and home improvement stores" from hardware; "rubber and plastic products, metal products, lumber and wood products and pulp, paper and related products" from empty barrels and cans; "chemicals and related products" from fertilizer; "lumber and wood products" from lumber and cordwood; "coal and coal products" from coal; "rubber and plastic products and pulp, paper and related products" from flowers; "such commodities as are dealt in by wholesale, retail or chain grocery or food business houses" from groceries and notions, all in the lead; "pulp, paper and related products, rubber and plastic products, lumber and wood products, clay, concrete, glass or stone products, and metal products" from containers, container ends and container lids in Sub-No. 15; and "pulp, paper and related products" from paper and paper products and woodpulp in Sub-No. 18F; (2) substitute the following counties for named cities in the lead and Sub-Nos. 15F and 18F Deltaville to Middlesex County, VA, Tappahannock to Essex County, VA, West Point to King William County, VA, Charles Town to Jefferson County, WV and Seaford to York County, VA; and (3) change one-way to radial authorities.

MC 98571 (Sub-7)X, filed March 27, 1981, previously, noticed in the **Federal Register** of April 10, 1981, republished as follows: Applicant: A & B TRANSPORTATION SERVICES, INC., 2645 Nevin Avenue, Los Angles, CA 90011. Representative: Daniel W. Baker, 100 Pine Street #2550, San Francisco, CA 94111. Applicant seeks to remove restrictions from its certificates in Nos. MC–98571 (Sub-Nos. 3 and 5), MC–99339 (Sub-No. 6 and 7), and MC–116877 (Sub-Nos. 5, 7, and 8F) issued pursuant to Nos. MC–F–8013, MC–F–12068, and MC–F–13243. This board previously broadened applicants authority by (1) eliminating the usual exceptions to the general commodity authority; (2) broadening other commodity descriptions; and (3) deleting restrictions limiting service at off-route points and intermediate points. Applicant also sought to broaden off-route points and mileage radii territorities to county-wide authority, but this request was denied. Inasmuch as two Commission decisions have allowed for the expansion of such points or territories notice is hereby given that applicant seeks to broaden (1) 176 named off-route points in "points in Alameda, Contra Costa, Glenn, Kern, Kinas, Marin, Napa, Merced, Sacramento, San Benito, San Joaquin, San Luis Obispo, San Mateo, Santa Barabara, San Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tulare, Ventura, Yolo Counties, CA" and (2) points within 10 miles of Stockon and Sacramento and five miles of Santa Rosa to "points in San Joaquin, Sacramento, and Sonoma Counties, CA."

MC 105902 (Sub-29)X, filed August 12, 1981, and previously noticed in **Federal Register** of September 2, 1981, republished as corrected this issue. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, NY 14527. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 5, 7, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21F, 22F, 24F, 25F, 26, and 28 certificates as previously noticed, and, in addition, to allow service at all intermediate points on its regular-route authority in Sub-No. 16 between South New Berlin, NY, and Utica, NY. The purpose of this republication is to correct the above inadvertent omission.

MC 114098 (Sub-60)X, filed August 31, 1981. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29731–3117. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004, (202) 628–4600. Applicant seeks to remove restrictions in its MC–115789 Sub-Nos. 3, 4, 5, 6, and 7 permits to (1) broaden the commodity description to "building materials" in Sub-No. 3 from asphalt protective coating; in Sub-No. 4 from fabricated steel, aluminum, pipe and fittings; to "building materials"; in Sub-No. 5 from swimming pools, swimming pool enclosures, and filtration and water equipment; to "building materials, chemicals and related products, lumber and wood products, rubber and plastic products, metal products, and machinery"; in Sub-No. 6 from wire and communication equipment; to "lumber and wood products, rubber and plastic products, metal products, and machinery"; in Sub-No. 7 from pipe, pipe fittings, and such materials, supplies and equipment as are used in the installation and maintenance of sprinkler, heating, and power piping systems, and tools and equipment used in the installation and maintenance therefor, and lumber; to "building materials, rubber and plastic products and metal products"; (2) broaden the territorial description in the Subs 3, 4, 5, 6, and 7 to between points in the U.S. under contract(s) with named shippers; (3) removing an in tank vehicles restriction in the Sub-No. 3; (4) removing an in bulk restriction in the Subs 3, 4, and 5; and (5) removing an except plywood and veneer restriction in the Sub 7.

MC 117972 (Sub-9)X, filed September 4, 1981. Applicant: GROWERS COLD STORAGE CO., INC., Route 279, Waterport, NY 14571. Representative: William J. Hirsch, P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 4, 6F and 8F certificates to (1) broaden commodity descriptions in the following to "food and related products"; in the lead from frozen fruits, frozen berries, and frozen vegetables; in Sub-No. 1, from frozen agricultural commodities, fish and meats, and food products, fresh or frozen; in Sub-No. 4, from frozen foods (except in bulk); in Sub-Nos. 6F and 8F, from frozen foods; (2) broaden territorial scope by replacing city-wide authority with county-wide authority: in the lead, Kearny with Hudson County, NJ; Youngstown with Mahoning County, OH; Boston with Norfolk, Suffolk, Middlesex, Essex Counties, MA; in Sub-No. 1, Waterport with Orleans County, NY; Elmira with Chemung County, NY; Ithaca with Tompkins County, NY; Rochester with Monroe County, NY; Syracuse with Onondaga County, NY; Jersey City with Hudson County, NJ; Albany with Albany County, NY; Jamestown with Chautauqua County, NY; Vineland and Bridgeton with Cumberland County, NJ; Newark with Essex County, NJ; Buffalo with Erie and Niagara Counties, NY; Pittsburgh with Allegheny, Washington, Westmoreland Counties, PA; in Sub-No. 4, Avon with Livingston County, NY; Cumberland with Allegany County, MD; Wheeling with Ohio County, WV; in Sub-No. 6F, Mt. Morris with Livingston County, NY; in Sub-No. 8F, Fulton with Oswego County, NY; Syracuse and Liverpool with Onondaga County, NY; Jamestown with Chautauqua County, NY; Elmira Heights with Chemung County, NY; Waterport with Orleans County, NY; Columbus with Franklin County, OH; Cleveland with Cuyahoga, Lorain, Medina, Summit Counties, OH; Buffalo with Erie and Niagara Counties, NY; Rochester with Monroe County, NY; Erie with Erie County, PA; (3) broaden one-way authority to radial authority in lead and all Sub-Nos.; and (4) in Sub-No. 4, remove restriction limiting transportation to shipments originating at named origin and destined to named destination.

MC 118865 (Sub-16)X, filed September 10, 1981. Applicant: CEMENT EXPRESS, INC., Hokes Mill Road and Lemon Street, York, PA 17404. Representative: Jerome M. Mulroy (same as applicant). Applicant seeks to remove restrictions in its lead and Sub-Nos. 5, 7, and 11 certificates to (1) broaden the commodity descriptions from dry cement, cement (portland and masonry) to "clay, concrete, glass, or stone products, and building materials" in all authorities; (2) broaden York, PA, to York County, PA, in all authorities; (3) delete plantsite restriction in the lead and Sub-Nos. 5, and 7; and (4) authorize radial authority in place of existing one-way authority between York County, PA, and named eastern States in all authorities.

MC 124170 (Sub-186)X, filed September 8, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Applicant seeks to remove restrictions in its Sub-Nos. 109F and 154F certificates to (1) broaden the commodity descriptions to "food and related products", from canned and preserved foodstuffs, and frozen goods, in both certificates; (2) eliminate the facilities limitation in Sub-No. 109F; (3) replace Erie, PA with Erie County, PA in Sub-No. 154F; (4) eliminate "originating at and destined to" restrictions in Sub-No. 109F; and (5) change one-way to radial authority in both certificates.

MC 135323 (Sub-1)X, filed September 10, 1981. Applicant: TONY CARNA, JR., d.b.a. T.C. TRUCKING, 115 State Street, Struthers, OH 44471. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Applicant seeks to remove restrictions in its lead certificate to (1) broaden its commodity description to "clay, concrete, glass or stone products", from dry cement, and cement; (2) expand Bessemer, PA to Lawrence County, PA; (3) change one-way to radial authority; and (4) eliminate the restriction limiting transportation to traffic having an immediately prior movement by rail from Bessemer, PA.

MC 136363 (Sub-29)X, filed August 20, 1981. Applicant: J & P PROPERITIES, INC., P.O. Drawer 1146, Apopka, FL 32703. Representative: James Anton, Suite 603, 236 Massachusetts Avenue, NE., Washington, DC 20002. Applicant seeks to remove restrictions in certificates No. MC-136363 Sub-Nos. 1, 2, 7, 18F, 20F, 21F, 22F and 24, and permit No. MC-136364 Sub-No. 1, to (1) broaden the commodity descriptions: Sub-No. 1 from canned goods (except coffee) to "food and related products"; in Sub-No. 2 from frozen bakery goods, frozen fruit and berry pies, frozen vegetable baby foods, frozen fruits, frozen berries, frozen vegetables, fruit products, fruit by-products, apple productions, apple by-products, canned foods, fruit products, fruit by-products (not frozen), frozen bakery products, pie fillers and coffee ligteners, and frozen foods, to "food and related products"; from new furniture (uncrated), to "furniture or fixtures"; from carpets and carpeting to "textile mill products"; from carpeting, floor coverings, carpet padding to "textile mill products"; in Sub-No. 7, from vinegar and foodstuffs, except frozen foodstuffs, to "food and related products"; from plastic and rubber articles and synthetic fiber carpeting, to "rubber and plastic products and textile mill products"; from new furniture, to "furniture or fixtures"; in part (1) of Sub-No. 18F, from bicycles, tricycles, and unicycles, to "transmission equipment"; in part (1) of Sub-No. 20F, from transformers and transformer parts to "electrical machinery or equipment"; in Sub-No. 21F, from foodstuffs, to "food and related products", in Sub-No. 24, from ice cream cones and materials and supplies used in the manufacture and distribution of ice cream cones, to "food and related products and materials and supplies used in the manufacture and distribution of food and related products"; and in Sub-No. 1 permit, from sheet and plastic material to "rubber and plastic products." (2) remove restrictions: (a) in Sub-No. 1 against the transportation of (canned goods, except coffee), when moving in the same vehicle with such commodities as are used and dealt in by nurseries, or commodities otherwise exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act; remove the restriction against the transportation of commodities in bulk, remove the restrictions against the transportation of canned fruit and canned fruit products from points in FL to points in CT, DE, MD, MA, NJ, NC, RI, and VA (except points on and west of U.S. Highway 81), WV and DC and remove the further restriction against the transportation of traffic destined to points in AZ, AR, CA, CO, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, SD, TN, TX, UT, VT, WI, and WY from points in AR, IA, KS, LA, MN (except Le Seuer, Cockato, Montgomery, Watertown, Winstead, Winthrop, Blue Earth and Glencoe), to points in FL; against service to and from Roseville, Zanesville, Scio and Logan, OH, and points within 5 miles of each and South Rockwood, MI; (b) in Sub-No. 2 remove restrictions against the transportation of frozen fruit and berry pies, the not frozen and uncrated restrictions and the restriction to container traffic only; to the transportation of traffic originating at Linesville, PA; against the transportation of tools except for use in

constructing and erecting buildings and use in installing furnishings; and restricting traffic to that originating at a named plant site in Miami and destined to the destination states; against service to Atlanta, GA and Chattanooga and Nashville, TN; (c) in Sub-No. 7 restricting transportation to traffic originating at or destined to plant sites, facilities, or stores; excepting frozen foodstuffs; against the transportation of earthenware, chinaware, stoneware, pottery, metal stands, and glass gazing flobes, from named points, remove the mixed load restrictions and against the transportation of "size and weight" commodities; (d) in Sub-No. 18F against the transportation of commodities; in bulk; (3) replace facilities and cities with county-wide authority: in Sub-No. 2, in parts 1 and 2 from Lake City, PA, to Erie County, PA, in part 3 from Linesville, PA, to Crawford County, PA; in part 4, Landover, MD, to Prince Georges County, MD; part 7, Pittsburgh, PA, to Alleghany, Washington, and Westmoreland Counties, PA; Richmond, IN, to Wayne County, IN; and Sandusky, OH, to Erie County, OH; in part 8, Cleveland, OH, to Cuyahoga, Lorain, Medina, Summit, and Lake Counties, OH, Landover, MD, to Prince Georges County, MD; part 9, Martinsburg and Inwood, WV, to Berkeley County, WV; in part 10 Martinsburg, WV, to Berkeley County, WV; in parts 11 and 12, Berryville, VA, to Clark County, VA, and Front Royal, VA, to Warren County, VA; in part 13, Mount Jackson, VA, to Shenandoah County, VA; in part 14 Lake City, PA, to Erie County, PA; in part 15 Linesville, PA, to Crawford County, PA; part 16, Miami, FL, to Dade and Broward Counties, FL; in part 17 Wilburton, OK, to Latimer County, OK; in Sub-No. 7, facilities at or near Aspers, Adams County, PA to Adams County, PA; facilities at Winchester, VA, to Winchester, VA; Ft. Worth, TX, to Tarrant and Parker Counties, TX; in Sub-No. 18F, Celina, OH, to Mercer County, OH; in Sub-No. 20F, facilities at Waukesha, WI, to Waukesha County, WI; in Sub-No. 21F, Clifton, NJ, to Passaic County, NJ; in Sub-No. 24, Louisville, KY, to Jefferson and Bullitt Counties, KY, and Floyd and Clark Counties, IN; and (4) broaden one-way to radial authority in Sub-Nos. 2, 7, 20F, and 21F; and in Sub-No. 1 permit, authorize service between points in the U.S., under continuing contract(s) with a named shipper.

MC 140033 (Sub-103)X, filed August 28, 1981. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: L. S. RICHEY (same as above). Applicant seeks to remove restrictions in its Sub-Nos. 46, 82, 87, 88, and 94F certificates to: (A) broaden the commodity descriptions from meats, meat products in Sub-No. 46; meats, meat products in Sub-No. 82; ice cream, fruit jucies, milk, cream and yogurt in Sub-No. 87; unfrozen, prepared bakery goods in Sub-No. 88 and foodstuffs and materials, equipment and supplies used in the manufacture and distribution of foodstuffs in Sub-No. 94 to "food and related products;" (B) remove the following restrictions: "in vehicles equipped with mechanical refrigeration" in Sub-Nos. 82 and 87; "except commodities in bulk" in Sub-Nos. 46, 82 and 94 and "except hides" in Sub-No. 46; (C) replace city wide with county-wide authority: Mansfield, TX with Tarrant County, TX in Sub-No. 46; facilities at Clovis, NM with Curry County, NM in Sub-No. 82; McKinney, TX with Collin County, TX; in Sub-No. 87; Sulphur Springs, TX with Hopkins County, TX in Sub-No. 87; Santa Ana, CA with Orange County, CA in Sub-No. 87; and Marietta, OK with Love County, OK in Sub-No. 88; (D) replace one-way authority with radial authority in Sub-Nos. 46, 82, 87, and 88.

MC 140710 (Sub-3)X, filed September 8, 1981. Applicant: CENTRAL STORAGE & VAN COMPANY, 828 South 17th Street, Omaha, NE 68108. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. Applicant seeks to remove restrictions in its Sub-No. 2 permit, to (1) delete (a) except foodstuffs; and (b) except meat, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61, M.C.C. 209 and 766 from its commodity description of "such commodities as are dealt in by retail department stores"; and (2) broaden the territorial description to between points in the US under contract(s) with named shipper.

MC 141252 (Sub-15)X, filed September 8, 1981. Applicant: PAN WESTERN CORPORATION, 4105 Las Lomas Avenue, Las Vagas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NY 89701. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the commodity description from gypsum and gypsum products and supplies used in the installation thereof to "contruction materials" (2) remove the plant site limitation and replace Apex, NV, with Clark County, NV and (3) change one way to radial authority.

MC 141651 (Sub-1)X, filed September 8, 1981. Applicant: GROVE TRANSPORT, INC., 215 Fourteenth Street, Jersey City, NJ 07302. — Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Applicant seeks to remove restrictions in its lead permit to (1) broaden the commodity description from metals and chemicals, materials and supplies to "metal products and chemicals and related products and materials and supplies used in the manufacture and sale thereof"; (2) remove the except in bulk restriction; and (3) broaden the territorial description to between points in the U.S. under continuing contract(s) with a named shipper.

MC 144969 (Sub-40)X, filed August 26, 1981. Applicant: WEATON CARTAGE CO., Industrial Park and Tufts Road, Pennsville, NJ 08070. Representative: Laurence J. DiStefano, Jr., 1101 Wheaton Avenue, Millville, NJ 08332. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1F, 2F, 3F, 4F, 6F, 10F and 17F certificates to (A) broaden the commodity descriptions to (1) in the lead (a) "rubber and plastic products" from synthetic plastics, synthetic latex, battery insulating partitions and cleaning compounds, (b) "chemicals and related products" from cleaning compounds, (c) "rubber and plastic products, chemicals and related products, and petroleum, natural gas and their products" from synthetic plastics, adhesives, sealants, cements, chemicals, chemical compounds, gas absorbing compounds, rubber, rubber compounds, soldering flux, coatings, lubricants, and materials, equipment and supplies used in the manufacture and distribution of the above commodities, and (d) "Chemicals and related products and fertilizers" from cleaning compounds, chemicals, chemical compounds, and fertilizer compounds, (2) in Sub-No. 1F, "rubber and plastic products, chemicals and related products, petroleum, natural gas and their products, metal products, pulp, paper and related products and materials, equipment, and supplies used in the application of the above commodities", from synthetic plastics, adhesives, sealants, cements, chemicals, rubber compounds, soldering flux, coatings and lubricants; gas absorbing compounds, rubber compounds, air entraining agents, cement clinker or grinding compounds concrete or masonary plasticizers and water reducing compounds, tall oil, lignin liquors, synthetic latex, battery insulating partitions, pulp board, cleaning compounds, fertilizer compounds, and materials, equipment

and supplies used in the application, manufacture and/or distribution of the above commodities, (3) in part (1) of Sub-Nos. 2F, 3F, and 4F, "chemicals and related products," from chemicals used in the curing and processing of cement and concrete, (4) in part (1) of Sub-No. 6F, "rubber and plastic products and pulp, paper and related products," from plastic articles and packaging supplies, (5) in Sub-No. 10F, "chemicals and related products and rubber and plastic products and materials, equipment and supplies used in the application of the above commodities," from chemicals and plastics, in packages, plastic and rubber articles, and materials, equipment and supplies used in the application, manufacture, production and/or distribution of the above commodities (except in bulk), and (6) in Sub-No. 17F, "chemicals and related products" from chemicals, in drums and proprietary antifreeze preparations, in containers; (B) eliminate the (1) "except commodities in bulk and/or in tank vehicles" restriction, in the lead and Sub-Nos. 2F, 3F, 4F, 6F and 10F, (2) "Hawaii and Alaska" restriction, in Sub-Nos. 1F, 6F, 10F and 17F, (3) "size and weight" restriction, in Sub-Nos. 1F, and (4) "orignating at or destined to named points, " in the lead and Sub-Nos. 1F, 2F, 3F, and 4F; (C) authorize county-wide authority to replace existing facilities or city-wide authority: (1) in the lead, Middlesex County, MA, for facilities at Acton, and Cambridge, MA; Gloucester County, NJ for Woodbury, NJ; and Hillsborough County, NH, for a facility at Nashua, NH, (2) in Sub-No. 1F, Middlesex County, MA, for Cambridge, MA; Gloucester County, NJ for Woodbury; Daviess County, KY, for Owensboro, KY; Hillsborough County, NH, for Nashua, NH; Middlesex County, MA, for Acton, MA; and Alameda County, CA, for San Leandro, CA, (3) in Sub-No. 2F, Middlesex County, NJ, for Edison, NJ, East Baton Rouge Parish, LA, for Baton Rouge, LA, (4) in Sub-No. 4F, Middlesex County, NJ, for Edison, NJ; East Baton Rouge Parish, LA, for Baton Rouge, LA; and Alameda County, CA, for Emeryville, CA; (5) in Sub-No. 6F, Berks County, PA, for Reading, PA, (6) in Sub-No. 10F, Seneca County, NY, for Waterloo, NY; Norfolk County, MA, for Canton, MA, and (7) in Sub-No. 17F, Travis, Jefferson, Montgomery Counties, TX; for facility at or near Austin, Youens and Ft. Neches, TX; and (D) authorize radial authority to replace existing one-way authority, in all certificates except Sub-No. 6F.

MC 145300 (Sub-7)X, filed September 11, 1981. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove the restrictions in its lead and Sub-Nos. 4 and 5 certificates to (1) broaden the commodity description from data processing materials to "pulp, paper, and related products, printed matter, and machinery" in the lead; from chemicals, medicines, and toilet preparations to "chemicals and related products" in Sub-No. 4; and from general commodities (with exceptions) to "general commodities (except Classes A and B explosives)" in Sub-No. 5; (2) replace city with county-wide authority from Hopkinton, MA to Middlesex County, MA, and Brookline, MA to Norfolk County, MA in the lead; and from West Haven, CT to New Haven County, CT in Sub-No. 4; (4) change one-way to radial authority in the lead and Sub-No. 4F (5) remove in bulk restrictions in Sub-No. 4F, and (6) remove the restrictions against the transportation of (a) any package or article weighing more than 70 pounds or exceeding 108 inches in length and girth combined with each packages or article considered as separate and distinct shipments and (b) packages or articles weighing in the aggregate more than 150 pounds from one consignor at one location on any 1 day in Sub-No. 5F.

MC 145733 (Sub-4)X, filed September 9, 1981. Applicant: AMERICAN AUTO SHIPPERS, INC., 450 Seventh St., New York, NY 10001. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave. N.W., Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-No. 3 certificate to (1) broaden its commodity description to "transportation equipment", from new and used motor vehicles and used motor homes; and (2) eliminate: (a) the in secondary movements in driveway service restriction, and (b) the restriction against service to Sturgis, NM, Tulare, CA, and Sherman, TX.

MC 146379 (Sub-5)X, filed September 11, 1981. Applicant: AUTO EXPRESS, INC., 466 South River Street, Hackensack, NJ 07601. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Applicant seeks to remove restrictions in its Sub-No. 4F certificate to (1) broaden the commodity description from used passenger automobiles, in secondary movements in truckaway service to "transportation equipment"; and (2) remove the except AK and HI restriction.

MC 147895 (Sub-2)X, filed August 31, 1981. Applicant: EXPRESS TRANSPORT CORP., P.O. Box 1, Crows Mill Road, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Applicant seeks to remove the restrictions in its Sub-No. 1F certificate limiting service to that "having an immediate prior or subsequent movement by water or rail."

MC 148426 (Sub-3)X, filed September 4, 1981. Applicant: CONTRACT COURIER SERVICES, INC., 951 Piper Lane, Suite 2, Lower Level, Prospect Heights, IL 60070. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) broaden the commodity description from radioactive drugs, radioistopes to "hazardous materials (except classes A and B explosives)"; (2) expand city to county-wide authority from (a) Ft. Wayne to Allen County, IN; (b) Indianapolis to Marion, Hancock, Johnson, Hendricks, Hamilton, and Boone Counties, IN; and (c) St. Louis, MO to St. Louis, Jefferson and St. Charles Counties, MO, St. Louis, MO and Madison and St. Clair Counties, IL; and (3) authorize radial for one-way authority.

MC 153372 (Sub-1)X, filed September 3, 1981. Applicant: P. JUDGE & SONS, INC., Building 1320, Dakar Street, Elizabeth, NJ 07201. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Applicant seeks to remove restrictions in its lead certificate by (1) broadening the commodity description from general commodities (except household goods as defined by the Commission and Classes A and B explosives) to "general commodities (except classes A and B explosives)"; and (2) delete the restriction limiting transportation to traffic having a prior or subsequent movement by rail.

MC 154620 (Sub-2)X, filed September 2, 1981. Applicant: PACIFIC INTERMODAL TRANSPORT, INC., 11819 Northeast 172nd St., Bothell, WA 98011. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions in its authority in MC-125551 and Sub-No. 16F, acquired in MC-FC 79072, to: broaden the commodity description from general commodities with exceptions, to "general commodities (except classes A and B explosives)"; remove the restriction against traffic having a prior or subsequent movement by water in Sub-No. 16F; and remove the restriction "in carrier's trailers on rail cars in substituted rail-for-motor service" in the lead.

[FR Doc. 81-27501 Filed 9-21-81; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Sheltered Workshop Advisory Committee; Establishment

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, it was determined that the establishment of the Advisory Committee on Sheltered Workshops is in the public interest in connection with the performance of duties imposed on the Department by the Fair Labor Standards Act, the Public Contracts Act, and the Service Contract Act.

The Committee shall provide advice and recommendations to the Secretary of Labor on such matters as the administration and enforcement of these laws as they apply to the employment of handicapped workers at subminimum wages in sheltered workshops and hospitals and institutions.

The Committee shall consist of 22 members: one each from labor, industry (other than sheltered workshops), and the public; 1 from State Government; 9 consumer members (handicapped workers, representatives of organizations representing handicapped workers or parents or guardians of handicapped workers), and; 9 officials from workshops, hospitals, institutions or organizations of hospitals, institutions or workshops.

The Committee shall function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of this publication.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee on Sheltered Workshops to William M. Otter, Administrator, U.S. Department of Labor, Wage and Hour Division, 200 Constitution Avenue, NW, Room S-3502, Washington, D.C. 20210, (202) 523-8305.

Signed at Washington, D.C., this 15th day of September 1981.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-27529 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-27-M

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 6, 1981, 10:00 a.m., C5320 Seminar Room 6, Frances Perkins, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Meyer Bernstein, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, D.C. this 16th day of September 1981.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

September 16, 1981.

[FR Doc. 81-27528 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits Period in the State of Illinois

This notice announces the ending of the Extended Benefit Period in the State of Illinois, effective on September 12, 1981.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Illinois on June 29, 1980, and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State of Illinois has determined that the rate of insured unemployment in the State for the period consisting of the week ending on August 22, 1981, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in that State.

Therefore, the Extended Benefit Period in that State terminated with the week ending on September 12, 1981.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State of Illinois should contact the nearest State Employment Office of the Illinois Department of Labor in their locality.

Signed at Washington, D.C., on September 16, 1981.

Albert Angrisani,

Assistant Secretary for Employment and Training.

[FR Doc. 81-27527 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits Period in the State of Rhode Island

This notice announces the ending of the Extended Benefit Period in the State of Rhode Island, effective on September 12, 1981.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefits Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Rhode Island on March 9, 1980, and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State of Rhode Island has determined that the rate of insured unemployment in the State for the period consisting of the week ending on August 22, 1981, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in that State.

Therefore, the Extended Benefit Period in that State terminated with the week ending on September 12, 1981.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State of Rhode Island should contact the nearest State Employment Office of the Rhode Island Department of Employment Security in their locality.

Signed at Washington, D.C., on September 16, 1981.

Albert Angrisani,

Assistant Secretary for Employment and Training.

[FR Doc. 81-27525 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits Period in the State of West Virginia

This notice announces the ending of the Extended Benefit Period in the State of West Virginia, effective on September 12, 1981.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of West Virginia on June 15, 1980, and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State of West Virginia has determined that the rate of insured unemployment in the State for the period consisting of the week ending on August 22, 1981, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in that State.

Therefore, the Extended Benefit Period in that State terminated with the week ending on September 12, 1981.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State of West Virginia should contact the nearest State Employment Office of the West Virginia Department of employment Security in their locality.

Signed at Washington, D.C., on September 16, 1981.

Albert Angrisani,

Assistant Secretary for Employment and Training.

[FR Doc. 81-27525 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or

threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1981.

The petitions filed in this case are available for inspection at the office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C.20213.

Signed at Washington, D.C. this 14th day of September 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Optical Corporation (workers)	Brattleboro, Vt	9/9/81	9/2/81	TA-W-12,963	Eyeglass and safety lenses, frames, regular prescription lenses and frames and sunglasses.
Bayview Cedar Products, Inc. (workers)	Hoquiam, Wash	9/10/81	8/27/81	TA-W-12,964	Cedar shakes and shingles.
Botex Corp. (ACTWU)	Paterson, N.J	9/8/81	6/30/81	TA-W-12,965	Printing and dyeing of fabrics.
Brewster Finishing Co., Inc. (ACTWU)	Paterson, N.J	9/8/81	6/30/81	TA-W-12,966	Printing and dyeing of fabrics.
(The) Buhker Hill Co. (USWA)	Kellogg, Idaho	9/9/81	9/2/81	TA-W-12,967	Lead, zinc, silver and byproducts, mines and smelter.
Callins Industries, Inc. (workers)	Greenfield, Tenn	9/9/81	9/4/81	TA-W-12,968	Aluminum electrolytic and film electric capacitors.
Chrysler Learning, Inc. (workers)	Highland Park, Mich	8/10/81	7/29/81	TA-W-12,969	Training of hourly personnel for placement within Chrysler.
ESS, Incorporated (company)	Sacramento, Calif	9/8/81	9/3/81	TA-W-12,970	Electronic and acoustic equipment.
Glass City Tool & Die Co., Inc. (workers)	Toledo, Ohio	9/10/81	9/1/81	TA-W-12,971	Special machines, tools, dies and fixtures.
Loungewear By Georgie Keyloun (workers)	New York, N.Y	8/27/81	8/24/81	TA-W-12,972	Pleated caftans.
Mesta Machine Co. (USWA)	West Homestead, Pa	9/9/81	9/2/81	TA-W-12,973	Heavy industrial machinery, foundry and forge shop.

[FR Doc. 81-27524 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision. The Notice of Approval of Revised Developmental Schedule was further published on April 1, 1974 in the **Federal Register.**

The Oregon plan provides for the adoption of Federal standards as State standards after comments and/or public hearing. Section 1952.108 of Subpart D sets forth the State's schedule for the adoption of Federal standards.

In response to Federal standards changes, the State originally submitted standards at least as effective as 29 CFR 1910.93(a), Asbestos, as published in the **Federal Register** (36 FR 10503) on May 29, 1971. The Notice of Approval of State standards was published in the **Federal Register** (40 FR 50583) on October 30, 1975.

Additional Federal standards concerning Asbestos Recordkeeping Requirements, 29 CFR 1910.1001, were published in the **Federal Register** (41 FR 11504) on March 19, 1976. The State submitted identical standards and received approval in the **Federal Register** (43 FR 15806) on April 14, 1978.

By letter dated May 8, 1980 from Darrel D. Douglas, Administrator, Accident Prevention Division, Workers' Compensation Department, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted a standard comparable to 29 CFR 1910.19(a), Special Provisions for Air Contaminants, Asbestos, as published in the **Federal Register** (43 FR 28473) on June 30, 1978, and included this change in their Asbestos Standard, OAR 437-115-004. Also, at that time, minor editorial changes and an amendment clarifying medical examination requirements were made to the State standard comparable to 1910.1001, Asbestos. These standards, which are contained in OAR 437, Division 115, Oregon Occupational Safety and Health Code, were promulgated by the State after a notice was published in the Secretary of State's Administrative Rules Bulletin on March 15, 1980 pursuant to ORS Chapter 183.335. No written comments or requests for a public hearing were received. The rule was adopted on April 17, 1980 and became effective June 1, 1980.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards continue to be at least as effective as the comparable Federal standards. The major differences are that the State standard has included rule 115-055(b), clarifying when medical examinations are required in response to OSHA Program Directive CPL 2-2.21 and has added minor editorial changes. None of the changes make the State standards less effective and, accordingly, they should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the

Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Technical Data Center, Room N2349R, New Department of Labor Building, 3rd and Constitution Avenues, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective September 22, 1981.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 16th day of March, 1981.

James W. Lake,

Regional Administrator.

[FR Doc. 81-27530 Filed 9-21-81; 8:45 am]

BILLING CODE 4510-26-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Format for Future Requests for Public Comment Regarding Determinations

In order to provide interested parties with an opportunity to respond to comments received by this Office regarding policy issues to be considered by the President in reviewing determinations of the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, the Office of the U.S. Trade Representative will use the following format for the solicitation for public comments.

The new format will reduce the time period for submission of comments on foreign or domestic policy issues from four weeks to three. Copies of comments received will then be made available to interested parties requesting them. Additional comments may be submitted during the week following the deadline for submission of initial comments.

The request for comment also will require that, in comments concerning domestic policy issues, reference be made to the portion of the Commission hearing record in which the issue was presented so that those wishing to answer may review that record. If no such presentation was made to the Commission, the party submitting the comment must include a statement explaining the failure to present the issue to the Commission. The U.S. Trade Representative will be reluctant to review domestic policy issues which could have been presented to the Commission but were not. Comments on foreign policy issues need not refer to the Commission record since review of foreign policy is solely within the President's purview.

This change in format is being made to encourage both those representing parties to the Commission investigation, and those representing any other interested party that might be affected by the determination of the Commission in any section 337 action, to present public policy issues to the Commission during its hearings on relief, bonding and the public interest. Such a presentation wil give other parties an opportunity to answer and will provide a more thorough record regarding domestic policy issues than generally has been available in the past.

The limited period provided for review of domestic and foreign policy issues makes it difficult to evaluate thoroughly domestic policy issues which are presented for the first time in response to a request for comments from this Office. Inclusion of a thorough presentation of those issues in the Commission record would permit a more thorough evaluation of foreign policy issues which might be present in a given investigation.

Following is a sample solicitation notice.

Donald E. deKieffer,

General Counsel.

Office of the U.S. Trade Representative

Request for Public Comments: Section 337 Determination of the U.S. International Trade Commission regarding

———.

On ——— (date), the United States International Trade Commission (the Commission), following an investigation, found a violation of section 337 of the Tariff Act of 1930 in the ——— (reason for determination). An order was issued ——— (nature of the order).

Under section 337(g), the President may disapprove the determination of the Commission within 60 days for policy reasons, thereby terminating the Commission's order on the date the Commission is notified of his disapproval. The President also may approve the determination expressly, making the order final immediately, or he may take no action, allowing the order to become final following the 60 day period provided for review.

Interested parties are invited to submit comments concerning foreign policy or domestic policy issues which should be considered by the President in making his decision. Parties submitting comments regarding domestic policy issues should refer to the portion of the Commission record in which information or comment concerning that issue was presented. If no presentation of the domestic policy issue was made to the Commission, the interested party should include justification for the failure to do so, *i.e.*, the information was not available or changed circumstances have raised an issue not present at the time of the Commission's determination. The U.S. Trade Representative will be reluctant to review comments concerning domestic policy issues not included in the Commission record absent adequate justification for the failure of the interested party to make a presentation before the Commission. Because foreign policy issues are considered only during the Presidential review, interested parties need not refer to the Commission record to submit comments based upon foreign policy.

Comments submitted should not be longer than 15 double spaced letter sized pages, including attachments. The original and 10 copies of the comments should be deliverd no later than the close of business ———, to the Secretary, Trade Policy Staff Committee, 600 17th Street, NW, Room 413, Washington, D.C. 20506. Interested parties may obtain copies of the comments submitted on ——— answers will be accepted until close of business ———. For further information call ———.

Chairman,

Section 337 Committee.

[FR Doc. 81-27493 Filed 9-21-81; 8:45 am]

BILLING CODE 3190-01-M

Trade Policy Staff Committee; Public Hearings On U.S.-Argentina Agreement on Hides and Leather

1. *Summary.* The Government of Argentina has informed the Office of the United States Trade Representative that it does not intend to fully implement its obligations under a U.S.-Argentina Agreement Concerning Hide Exports and Other Trade Matters (the Hide Agreement) dated August 10, 1979. In that Agreement Argentina agreed to reduce its ad valorem export tax on cattlehides to 10% on October 1, 1980, to 5% on April 1, 1981, and to 0% on October 1, 1981. On October, 1980, Argentina reduced its export tax to 10% and has refused to further reduce it according to the Hide Agreement.

In return for Argentine tax reductions, the United States agreed to reduce its ad valorem duty on bovine leather (TSUS 121.61) to 1% on October 1, 1980, and to 0% on October 1, 1981. The duty is currently 2% ad valorem.

The United States is continuing to consult with the Government of

Argentina, but to date has reached no resolution on compliance with the Hide Agreement. The United States is now considering suspending its obligation under the Hide Agreement and retaining the 1% duty on bovine leather, pending reassessment of the Agreement.

Under Section 125 of the Trade Act of 1974 (19 U.S.C. 2135) the President is authorized whenever any foreign country or instrumentality withdraws, suspends, or modifies the application of trade agreement obligations of benefit to the United States without granting adequate compensation, to withdraw, suspend or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality and proclaim such increased duties or import restrictions as are appropriate to effect adequate compensation from such foreign country or instrumentality.

Before taking any such action to restore the balance of obligations, the President is required to provide for public hearings at which time interested persons will be given a reasonable opportunity to be present, to produce evidence and to be heard. Because the final duty reduction is scheduled to go into effect on October 1, expedited hearings are being held in order to allow for the possibility of prompt action.

2. *Notice of Public Hearings.* Pursuant to section 125 of the Trade Act of 1974 (19 U.S.C. 2135), the Trade Policy Staff Committee (TPSC), chaired by the Office of the United States Trade Representative, has scheduled public hearings for September 28, 1981, concerning this issue.

3. *Time and Place of Hearings.* The Committee's hearings will be held at 10:00 a.m. on September 28, 1981 in Washington, D.C., Office of the United States Trade Representative, Winder Building, 600 Seventeenth Street, N.W., Room 303.

4. *Communications Regarding Hearings.* Communications with regard to these hearings should be addressed to: Carolyn Frank, Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 418, Winder Building, 600 Seventeenth Street, N.W., Washington, D.C. 20506 (Phone: 202-395-3467). Questions concerning the Hide Agreement and negotiations with Argentina should be directed to Jon Rosenbaum, Director of Latin America and African Affairs, Office of the United States Trade Representative, (202) 395-5192. Questions concerning legal requirements under the Trade Act should be directed to Michael Hathaway, Acting Deputy General Counsel, Office of the United States Trade Representative, (202) 395-3432.

5. *Requests to Present Oral Testimony.* All requests to present oral testimony must be received by the Secretary of the TPSC not later than close of business, September 24, 1981.

6. *Written Briefs.* Written briefs may be submitted in lieu of oral testimony. To be fully considered by the Committee, written briefs, in 20 copies, should be received by noon, September 25, 1981 and addressed to the Secretary of the TPSC.

7. *Procedures for Submission of Briefs.* Procedures for the submission of written briefs and rebuttal briefs, and other relevant information concerning the hearing process is contained in the Federal Register of August 28, 1980 (45 FR 57636) and TPSC regulations codified at 14 CFR Part 2003.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 81-27606 Filed 9-18-81; 12:20 pm]

BILLING CODE 3190-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Southland Corporation for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if three conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before November 6, 1981.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (Mail Stop 140), Pension Benefit Guaranty Corporation, 2020 K Street, NW, Washington, D.C. 20006. The request for an exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ellen A. Hennessy, Office of the Executive Director, Policy and Planning, Suite 7300, 2020 K Street, NW, Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

The Statute

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001 *et seq.* As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits.

The withdrawal liability rules generally apply to withdrawals occurring after April 28, 1980.

Section 4204 of ERISA, 29 U.S.C. 1384, provides that the sale of assets of a contributing employer in a bona fide arm's-length transaction to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)-(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) the contract of sale provides that if the purchaser withdraws from the plan

within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrowed amount described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any requirement contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C) if the variance would "more effectively or equitably carry out the purposes of [Title IV]." The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business trnasactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Section 4204(c) of ERISA requires that PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from the Southland Corporation ("Southland") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, Southland represents among other things, that:

1. On August 17, 1981, Southland purchased the operating assets of Merritt-Foods Corporation ("Merritt").

2. Southland has assumed Merritt's responsibilities under a collective bargaining agreement with Local #207 of the International Brotherhood of Teamsters, which obligated Merritt to contribute to the Central States, Southeast and Southwest Areas Pension Fund (the "Fund").

3. The Fund has determined that the amount of the bond or escrow is $159,654.00, the contributions required to be made by Merritt during the 1980 plan year. Southland has obtained a bond for that amount which guarantees Southland's contributions to the Fund for five years after the sale. This bond would be cancelled if the exemption request is granted.

4. According to its audited statements for fiscal year ending on January 31, 1980, Southland has net assets of $554 million.

5. Southland has sent a copy of this request to the Fund.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, within 45 days after the publication of this notice. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 16th day of September, 1981.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-27489 Filed 9-21-81; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18097; File No. SR-BSE-81-9]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.

September 17, 1981.

Relating to an extension of the temporary 15% increase in Exchange billings to members and imposition of an interest charge of 1½% per month on unpaid balances due from members.

Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 14, 1981, the Boston Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On May 5, 1981, approval was granted by the Securities and Exchange Commission to allow the Exchange to impose a temporary 15% increase on all Exchange billings to members effective for the period May 1, 1981 through September 30, 1981. It is proposed to extend this temporary 15% increase for the period October 1 through December 31, 1981.

The Board of Governors of the Exchange also concluded to impose an interest charge of 1½% per month on unpaid balances due from members 30 days after billing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places set forth in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

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

(a) The 15% increase on all Exchange billings to members was previously approved for the period May 1 through September 30, 1981. This increase was necessitated by increased costs in communications, data processing, leasehold and personnel expenses. It was expected, at that time, that a detailed study of all income and expenses of the Exchange would be completed by September 30, 1981. The Committee appointed to conduct the study has not been able to complete its recommendations so the Board of Governors of the Exchange voted to extend the 15% increase for the period October 1 through December 31, 1981.

The purpose of the imposition of an interest charge of 1½% per month on unpaid balances due from members 30 days after billing is to stimulate prompt payment of dues and/or assessments which in turn will effect a reduction in the receivables due from Exchange members.

(b) The basis under the Act for the proposed rule change is section 6(b)(4) requiring the rules of an exchange to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its service.

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

No burden on competition is perceived by adoption of the proposed Rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed change that are filed with the Commission, and all written communications relating to the proposed change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

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

Dated: September 17, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-27555 Filed 9-21-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18056; File No. SR-NSCC-80-35]

Self Regulatory Organization; the National Securities Clearing Corp.

August 24, 1981.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, National Securities Clearing Corporation ("NSCC") submitted Amendment No. 1 to a proposed rule change (SR-NSCC-80-35) on July 13, 1981. The amendment would establish standards of financial responsibility and operational capability for initial and continued membership in NSCC by banks and would amend NSCC Rule 46 to establish standards under which NSCC may suspend a bank member or limit a bank's access to NSCC's services. By adding membership standards for banks, this amendment completes a proposed rule change submitted by NSCC on December 19, 1981, establishing standards of financial responsibility and operational capacity for broker-dealer members in NSCC (46 FR 10889, February 4, 1981).

In its filing, NSCC indicated that, in drafting the bank standards, NSCC adopted standards for banks that are comparable to the standards for broker-dealers except to the extent that banks are subject to materially different regulatory principles and accounting practices.

Publication of the submission is expected to be made in the **Federal Register** during the week of August 24, 1981. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions within twenty-one days from the date of publication should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-80-35.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

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

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-27556 Filed 9-21-81; 8:45 am]

BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 183
Tuesday, September 22, 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).

CONTENTS

1

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 9:30 a.m., Monday, September 28, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 18, 1981.

James McAfee,

Assistant Secretary of the Board.

[S 1430-81 Filed 9-18-81; 3:05 pm]

BILLING CODE 6210-01-M

2

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

DATE AND TIME: 9:30 a.m.-3 p.m., September 28, 1981.

PLACE: Room 823, National Institute of Education, 1200 19th Street, N.W., Washington, D.C.

STATUS: Certification is being sought from the Department of Education Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on September 28, 1981, under 5 U.S.C. 522b(c)(9)(B) and 34 CFR 705.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE options for the NIE fiscal year 1983 budget and procurement planning and budget for fiscal year 1982." Agenda item *#4* will be closed, the rest of the agenda will be open to the public. The public should call to verify the *closing* of this portion of the meeting.

MATTERS TO BE CONSIDERED:

1. Acting Director's Report (9:30-10:30 a.m.).
2. Report on Implementation of Dissemination Policy (10:30-10:45 a.m.).
3. Report on NIE study of Vocational Education By Henry David (1:15 p.m.-2:00 p.m.).
4. CLOSED SESSION concerning 1983 budget and 1982 procurement (11:30 a.m.-12:15 p.m.). Lunch (12:15 p.m.-1:15 p.m.)
5. NCER Policy on Curriculum Development (10:45-11:30 a.m.).
6. Science Education with National Science Foundation representative (2:00 p.m.-3:00 p.m.).

Adjournment

CONTACT PERSON FOR MORE INFORMATION:

Martha H. Catto; Telephone: (202) 254-7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S 1426-81 Filed 9-18-81; 11:31 pm]

BILLING CODE 4000-05-M

3

NATIONAL TRANSPORTATION SAFETY BOARD.

[NM-81-35]

TIME AND DATE: 9 a.m., Tuesday, September 29, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Safety Report:* Status of Department of Transportation Hazardous Material Regulatory Programs and *Recommendations* to the Secretary, DOT.
2. *Railroad Accident Report:* Derailment of Amtrak Train No. 97 on Seaboard Coastline Railroad Track at Lochlosa, Florida, May 26, 1981, and *Recommendations* to the President of the Family Lines and to the Association of American Railroads.
3. *Highways Accident Report:* ARA Transportation Group Tour Bus, Denali Naitonal Park and Preserve (Mt. McKinley National Park), Alaska, June 15, 1981, and *Recommendations* to the National Park Service.
4. Safety Effectiveness Evaluation Program.
5. FY 1982 Safety Effectiveness Evaluations.

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

September 18, 1981.

[S 1429-81 Filed 9-18-81; 12:51 pm]

BILLING CODE 4910-58-M

federal register

Tuesday
September 22, 1981

Part II

Department of Energy

Western Area Power Administration

Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects

AGENCY: Western Area Power Administration, Energy.

ACTION: Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects.

SUMMARY: The Western Area Power Administration (Western) has been developing a new power marketing plan for the Boulder Canyon Project, Parker-Davis Project, and Central Arizona (Navajo Generating Station) Project since its first Notice of Intent published in the Federal Register of February 15, 1980 (45 FR 10398). In the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria) published herewith Western proposes to contractually consolidate and operationally integrate the three Boulder City Area Projects. The document will serve as new marketing criteria for the Parker-Davis and Navajo resources and will replace the existing regulations for the Boulder Canyon Project. These Criteria provide for the marketing and allocation of each of the resources in Western's Boulder City area as power becomes available during the period 1984 through June 1, 1987. The availability of these resources will also be dictated by the inservice dates of proposed increases in the nameplate rating of the Boulder Canyon Project Powerplant (upratings and modifications), the projected inservice dates of power-consuming features of the Central Arizona Project and the Title I Salinity Control Project (as amended by Pub. L. 96-336 of September 4, 1980), and the termination of electric service contracts for each project. Western has had informal public participation through public information forums, written comments, and consultations in the development of these Criteria. Contractors and interested parties are invited to submit formal written comments concerning the Criteria and the varying positions directly to Western's Boulder City Area Office. Comments are requested on the amounts of power and energy to be allocated. Consideration will be given to proposing periodical adjustment upwards or downwards over the life of the contracts in recognition of the growth and needs of the region. Comments are also solicited with respect to the advisability and practicability of such adjustments.

DATES: An opportunity will be given all interested parties to present written or oral statements, data, or arguments at a public comment forum in January 1982 in Las Vegas, Nevada. The time, date, and location will be announced at a later date. Written comments should be submitted at or before the comment forum.

ADDRESS: Written comments concerning the Criteria can be delivered at the public comment forum or mailed to the following address: Mr. R. A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005, (702) 293-8115.

SUPPLEMENTARY INFORMATION: Western received many responses to its solicitation for proposals, comments and recommendations contained in the public information forums of September 19, 20, and 21, 1978; the April 24, 1979, Federal Register (44 FR 24153) notice; the public information forums of November 30, 1979, February 22, 1980, May 16, 1980, and August 29, 1980; and the Notice of Intent to Formulate Power Marketing Criteria published in the Federal Register on February 15, 1980.

These responses, as well as comments received during informal consultations with interested parties, have been considered in the development of these Criteria. Some of the major areas addressed during the development of the Criteria were: (1) the marketing area; (2) the future allocation of Boulder Canyon, Parker-Davis, and Navajo Project Power; (3) general terms and condtions for contracts such as contract term, classes of power, operations, delivery, and conservation measures; and (4) renewal contracts.

Throughout the informal public process, varying positions concerning Boulder Canyon Project power marketing have been advanced by the States of Arizona and Nevada, the California Hoover allottees, and public entities in other States.

The Attorney General of the State of Nevada filed with Western legal opinion dated January 7, 1981, entitled "The Legal Position of the State of Nevada With Respect to the Next Allotment of Power from Hoover Dam." Nevada's position is that it is statutorily entitled to one-third of the Hoover resource upon contract termination on May 31, 1987. The State contends that the State preference language of the Boulder Canyon Project Act of 1928 takes precedence over the renewal language of the Act, which language is also contained in the power contracts.

The California Hoover allottees by letter dated August 11, 1981, restated their previous position concerning the marketing plan. In general, they contend they have an absolute right to renew their present contract in kind, which includes such things as a 50-year term of contract, use of all capability of the generating units, which they presently enjoy, and to all secondary energy available.

In addition to these States, representatives of public entities in other States have advanced their position that they are entitled to share in the benefits of the Hoover resource after May 31, 1987.

Western does not fully accommodate either major position, but has, under authorized administrative discretion, developed a marketing proposal which would allocate current Boulder Canyon Project and Parker-Davis Project power and energy amounts under new terms and conditions and make power and energy in excess of the current amounts available for allocation.

The following written materials relative to the Criteria are available for inspection and copying at Western's Boulder City Area Office:

1. Letter dated August 11, 1981, to Mr. Robert A. Olson from California Hoover Allottees. Recites California allottees position with regard to Boulder Canyon Project power marketing.

2. Letter dated July 23, 1981, to Contractors and Interested Parties. Transmits July 17, 1981, Federal Register (46 FR 37082) notice which deferred publication of the Proposed General Consolidated Power Marketing Criteria for Boulder City Area Projects and Regulations for the Boulder Canyon Project Renewal (Proposed Criteria) until September 11, 1981.

3. Letter dated July 19, 1981, to Boulder Canyon Project Contractors. Transmits letter dated June 30, 1981, from the State of Nevada, Division of Colorado River Resources, to Mr. R. A. Olson.

4. Letter dated June 30, 1981, from the State of Nevada, Division of Colorado River Resources to Mr. R. A. Olson. Requests delay in publication of the Proposed Criteria.

5. Letter dated June 18, 1981, from the Arizona Power Authority to Mr. R. A. Olson. Requests delay in publication of the Proposed Criteria.

6. Letter dated June 12, 1981, from the State of Nevada, Division of Colorado River Resources, to Mr. R. A. Olson. Requests reply to Nevada legal opinion and other information.

7. Letter dated May 1, 1981, to State of Nevada, Division of Colorado River Resources. Replies to State's letter dated April 21, 1981.

8. Letter dated April 21, 1981, From the State of Nevada, Division of Colorado River Resources to Mr. R. A. Olson. Requests information concerning analysis of Nevada's legal opinion.

9. Letter dated April 9, 1981, To Contractors and Interested Parties. Transmits information regarding the schedule for completion of the General Consolidated Power Marketing Criteria for Boulder City Area Projects.

10. Letter dated January 27, 1981, To Contractors and Other Interested Parties. Transmits comments on December 12, 1980, letter regarding tentative schedule for completion of the General Consolidated Power Marketing Plan.

11. Letter dated December 12, 1980, To Contractors and Other Interested Parties. Transmits tentative calendar of events, staff discussion paper concerning Boulder Canyon Project issues (dated December 10, 1980), and the Proposed General Consolidated Power Marketing Criteria for Boulder City Area Projects.

12. Letter dated October 20, 1980, to All Parties Who Submitted Written Comments to the August 29, 1980, Public Information Forum. Transmits comments on August 29, 1980, public information forum.

13. Consolidated Power Marketing Plan public information forum, August 29, 1980, presentation.

14. Consolidated Power Marketing Plan public information forum, August 29, 1980, slides.

15. Letter dated July 31, 1980, to Arizona Municipal Power Users' Association. Transmits comments on May 16, 1980, public information forum.

16. **Federal Register** (Vol. 45, No. 147) Tuesday, July 29, 1980, notices, pages 50412 and 50413. Announcement of August 29, 1980, public information forum.

17. Letter dated July 25, 1980, to Contractors and Other Parties Interested in Future Power Marketing Criteria for the Boulder City Area.

Notification of August 29, 1980, public information forum; also transmitted Preliminary Draft Criteria.

18. Consolidated Power Marketing Plan public information forum, May 16, 1980, presentation.

19. Consolidated Power Marketing Plan public information forum, May 16, 1980, slides.

20. Letter dated May 2, 1980, to All Parties Who Submitted Written Comments to the February 22, 1980, public information forum. Transmits comments on February 22, 1980, public information forum.

21. **Federal Register** (Vol. 45, No. 72) Friday, April 11, 1980, notices, pages 24912 and 24913. Announcement of May 16, 1980, public information forum.

22. Consolidated Power Marketing Plan public information forum, February 22, 1980, presentation.

23. Consolidated Power Marketing Plan public information forum, February 22, 1980, slides.

24. **Federal Register** (Vol. 45, No. 33) Friday, February 15, 1980, notices, pages 10398 and 10399. Announces intent to formulate consolidated marketing criteria for the Boulder City Area projects.

25. Letter dated January 31, 1980, to Contractors and Other Parties Interested in the Consolidated Power Marketing Plan for the Boulder City Area. Notification of February 22, 1980, public information forum.

26. Letter dated January 30, 1980, to All Parties Who Submitted Written Comments on the Consolidated Power Marketing Plan. Transmits comments on March 28, 1979, letter and November 30, 1979, public information forum.

27. Consolidated Power Marketing Plan public information forum, November 30, 1979, proceedings of the meeting.

28. Errata sheet for November 30, 1979, Consolidated Power Marketing Plan public information forum proceedings of the meeting.

29. Consolidated Power Marketing Plan public information forum, November 30, 1979, slides.

30. **Federal Register** (Vol. 44, No. 213) Thursday, November 1, 1979, notices, pages 62938 and 62939. Announcement of November 30, 1979, public information forum.

31. **Federal Register** (Vol. 44, No. 80) Tuesday, April 24, 1979, notices, pages 24153 and 24154. Notice of request for written comments on the marketing of Boulder Canyon Project power.

32. Memorandum dated March 28, 1979, to Contractors and Other Parties Interested in Future Marketing Plans for Boulder Canyon Project Power. Requests written comments on future marketing plans for Boulder Canyon Project.

33. Navajo Marketing Meeting, Denver, Colorado, September 21, 1978. Agenda and presentation.

34. Navajo Marketing Meeting, September 21, 1978, graphics to presentations.

35. **Federal Register** (Vol. 43, No. 178) Wednesday, September 13, 1978, notices, pages 40909 and 40910. Announcement of public meetings concerning marketing power from the Navajo Project, Page, Arizona.

Regulatory Procedural Requirements

1. Determination Under Executive Order 12291: Western has determined that these Criteria are not a major rule under section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). This proposed rule has been submitted to the Director of the Office of Management and Budget for review prior to publication in the **Federal Register.**

2. Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) each agency, when required by 5 U.S.C. 553 to publish certain rules, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of such rules on small entities. Western has determined that (1) this proposed rulemaking of particular applicability relates to allocation and selling of electric services in accordance with reclamation law by Western and, therefore, is not a rule within the purview of the Regulatory Flexibility Act of; and in any event (2) the impacts of such allocation and the selling of electric service by Western would not cause an adverse economic impact on a substantial number or those small entities provided for under the Regulatory Flexibility Act. The requirements of the Act do not apply to the proposed rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. For the above reason, the Administrator of Western has certified that the Criteria are not a rule within the ambit of the Regulatory Flexibility Act. The Administrator's certification is published herewith and has been sent to the Chief Counsel for Advocacy of the Small Business Administration.

3. Environmental Assessment: The publication of these Criteria or its implementation does not constitute a major Federal action which significantly affects the environment. A Federal environmental impact statement is, therefore, not required for these Criteria under the National Environmental Policy Act of 1969.

Statutory Basis

The Federal power in the Boulder City area will be marketed in accordance with the power marketing authorities in Federal reclamation laws (The Act of June 17, 1902, (32 Stat. 388), and all acts amendatory thereof or supplementary thereto); the Department of Energy Organization Act of 1977 (91 Stat. 565); and in particular, those acts and amendments enabling Boulder Canyon Project (45 Stat. 1057); Parker-Davis Project (49 Stat. 1028, 1059; 53 Stat.

1189); and the Colorado River Basin Project (72 Stat. 1726).

Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects—United States Department of Energy, Western Area Power Administration, Boulder City Area Office, September 1981

Table of Contents

Part I. General

Section A. Purpose and Scope

In accordance with Federal power marketing authorities in reclamation law and the Department of Energy Organization Act of 1977, the Western Area Power Administration (Western) has developed these Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria). These Criteria establish one set of general and uniform marketing principles for all Federal power projects (Projects) under the marketing jurisdiction of Western's Boulder City Area (BCA). The document will serve as new marketing criteria for the Parker-Davis and Navajo resources and will replace the existing regulations for the Boulder Canyon Project. In developing these Criteria, consideration was given to informal and formal studies and analyses, public questions and comments, and recommendations from and consultations with contractors and other interested parties. These Criteria have been developed by an informal public participation process to balance feasible technical possibilities, the desires of interested parties within the collective public interest, and the constraints of applicable laws.

Throughout the informal public process, varying positions concerning Boulder Canyon Project power marketing have been advanced by the States of Arizona and Nevada, the California Hoover allottees, and public entities in other States.

The Attorney General of the State of Nevada filed with Western a legal opinion dated January 7, 1981, entitled "The Legal Position of the State of Nevada With Respect to the Next Allotment of Power from Hoover Dam." Nevada's position is that it is statutorily entitled to one-third of the Hoover resource upon contract termination on May 31, 1987. The State contends that the State preference language of the Boulder Canyon Project Act of 1928 takes precedence over the renewal language of the Act, which language is also contained in the power contracts.

The California Hoover allottees by letter dated August 11, 1981, restated their previous position concerning the marketing plan. In general, they contend they have an absolute right to renew their present contract in kind, which includes such things as a 50-year term of contract, use of all capability of the generating units which they presently enjoy, and all secondary energy available.

In addition to these States, representatives of public entities in other States have advanced their position that they are entitled to share in the benefits of the Hoover resource after May 31, 1987.

Western does not fully accommodate either major position, but has, under authorized administrative discretion, developed a marketing proposal which would allocate current Boulder Canyon Project and Parker-Davis Project power and energy amounts under new terms and conditions and make power and energy in excess of the current amounts available for allocation.

Section B. Authorities

Federal power in the BCA will be marketed in accordance with the power marketing authorities in Federal reclamation laws (The Act of June 17, 1902 (32 Stat. 388), and all acts amendatory thereof or supplementary thereto); the Department of Energy Organization Act of 1977, (91 Stat. 565); and in particular, those acts and amendments enabling Boulder Canyon Project (45 Stat. 10.57); Parker-Davis Project (49 Stat. 1028, 1059; 53 Stat. 1189); and the Colorado River Basin Project (72 Stat. 1726).

The following is a general, informational listing of applicable Federal power marketing authorities: the Reclamation Act of 1902 (32 Stat. 388); the Town Sites and Power Development Act of 1906 (34 Stat. 116); the Federal Water Power Act of 1920 (41 Stat. 1063); the Boulder Canyon Project Act of 1928 (45 Stat. 1057); the Act of August 30, 1935, authorizing the construction of Parker Dam (49 Stat. 1028, 1039); the Reclamation Project Act of 1939 (53 Stat. 1189); the Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774); the Act to Consolidate Parker Dam Power Project and Davis Dam Project of 1954 (68 Stat. 143); the Boulder City Act of 1958 (72 Stat. 1726); the Colorado River Basin Project Act of 1968 (72 Stat. 1726); the Colorado River Basin Salinity Control Act of 1974 (88 Stat. 266), as amended by (94 Stat. 1063); and the Department of Energy Organization Act of 1977 (91 Stat. 565).

Section C. Implementation and Related Information

These Criteria will be published by the Secretary of Energy acting by and through the Administrator of Western upon completion of the formal public involvement process. Requests for applications for power and energy reserved for allocation to current contractors and for power and energy available for allocation will follow finalization of the Criteria. An allocation will be published following a separate public process. The final allocation will be implemented by contract. Contracts will be implemented as existing contracts and contract extensions terminate, and as increased or additional resources become available.

1. Contracts. The Projects will be contractually consolidated and operationally integrated within: applicable laws; the operational constraints of the Colorado River, Project powerplants, and Navajo Generating Station, as may be imposed by the Secretary of the Interior or his authorized representatives; the general terms, conditions, and principles contained in these Criteria; and the General Power Contract Provisions in effect which are applicable to a particular Project.

No Contractor shall sell for profit any of the power and energy allocated to it to any customer of the contractor for resale by the customer.

The existing Boulder Canyon Project contracts terminate on May 31, 1987. The existing Parker-Davis Project contracts terminate March 31, 1986. The Parker-Davis Project contracts will be extended through May 31, 1987, upon

mutual agreement between Western and the individual contractor, in order to achieve contract termination dates coincident with the Boulder Canyon Project contracts. Navajo Generating Station power and energy surplus to the needs of the Central Arizona Project and Title I Salinity Control Project (as amended by Pub. L. 96-336 of September 4, 1980), may be available as early as July 1984 in varying quantities and will be marketed in accordance with these Criteria.

A uniform contract termination date offers Western an opportunity to improve the administrative efficiency of the BCA by consolidating contract offers and new allocations into a single contract. Consideration will be given to contract terms of from 10-20 years to permit adjustment for changing conditions. Western and each contractor will negotiate a consolidated contract which will contain terms and conditions applicable for all the types of power to be marketed under these Criteria.

Western intends to ensure the availability of power with and without energy under its firm and peaking power contracts.

Western will integrate the scheduling and dispatching of all Project power and energy to achieve optimum efficiency. Western will purchase energy specifically for the purpose of fulfilling the firm energy obligations of a particular Project, and to provide energy for additional power resources. The cost of this energy will be an operating expense in the year in which it occurs. The cost of additional power resources at existing Projects will be integrated with the cost of the Project to which it is assigned. The individual Projects will remain financially segregated for the purposes of accounting and repayment. The BCA rate schedule containing rates for each individual Project will be developed to satisfy cost recovery criteria for each Project. Project cost recovery criteria will be developed as part of a separate public process. In general, the cost recovery criteria will include cost of production components such as operation, maintenance, and other financial obligations of the Projects. The rate for Boulder Canyon Project power and energy will be developed in accordance with the cost recovery criteria and will include a component to provide for a contribution to the lower Colorado River Basin Development Fund in accordance with the Colorado River Basin Project Act of 1968 and congressional directives.

The Bureau of Reclamation (Reclamation) is planning an extensive penstock maintenance program for the Boulder Canyon Project powerplant which will remove a penstock and the associated generating units from service for approximately 1 month during each winter season; and, additionally, the Boulder Canyon Project modifications powerplant for approximately 1 month every fourth year. In order to accommodate this program with the least impact and at lowest cost, the Boulder Canyon Project contractors will be requested to cooperate with Western in an exchange of maintenance capacity during the term of the penstock outage.

2. Additional Resources. Reclamation is currently planning an uprating program which would increase the nameplate rating of the Boulder Canyon Project from 1,340 MW to approximately 1,800 MW at rated head. Reclamation is also planning a Boulder Canyon Project modification program which would further increase the nameplate rating of the Boulder Canyon Project by approximately 500 MW at rated head. The amounts of power (part V) which become available as a result of the upratings and modifications will be allocated in accordance with the Boulder Canyon Project preference priorities (part IV) and will be contracted for as power increases are developed. The current schedule for the uprating program indicates staged increases with completion in the early 1990's.

In the event that the uprating program is not completed, the total amount of firm and peaking power initially allocated to contractors (part V) will be reduced on a proportional basis. Power allocated from the existing Boulder Canyon Project will not be affected. If, subsequent to such a power reduction, the uprating program is reinstated in whole or in part as described in part V, the amounts initially allocated will be restored to the contractors in proportionate amounts as the upratings are completed.

In the event that the modification program is not authorized, the amounts of peaking power (without energy) which have been identified for allocation (part V) will not be available. In the event that the modifications program is authorized, but not completed, the amounts of peaking power (without energy) which have been identified for allocation (part V) will be reduced on a proportional basis.

Part II. Marketing Area

The marketing area for the Projects is generally depicted on the map in appendix A of these Criteria, and consists of southern California, southern Nevada, most of Arizona, and a small part of New Mexico. The BCA marketing area includes a limited portion of the Upper Colorado River Basin in which the Navajo Generating Station is located and most of the Lower Colorado River Basin as defined in the Colorado River Compact.

Part III. Service Seasons

Power and energy from all Projects will be marketed for delivery during two service seasons. These seasons are based upon historic water releases on the Lower Colorado River. Approximately 70 percent of the water is released during the summer season and 30 percent of the water is released during the winter season. The reduced water releases during the winter season allow for a period in which to perform generator maintenance.

Section A. Summer Season

The summer season for any calendar year is the 7-month period beginning the first day of BCA's March billing period and continuing through the last day of BCA's September billing period.

Section B. Winter Season

The winter season is the 5-month period beginning the first day of BCA's October billing period, for any calendar year, and continuing through the last day of BCA's February billing period, in the next succeeding calendar year.

Part IV. Contract Offers, Priority Uses, and Preference

Certain amounts of power and energy are reserved for offers to current Parker-Davis and Boulder Canyon Project contractors and for priority uses by the United States. Those entities entitled to preference will be recognized in the allocation and sale of all power and energy in excess of the contract offers and priority uses as described below.

Section A. Navajo Generating Station

Navajo Generating Station power and energy which is surplus to the Federal uses of the Central Arizona Project and Title I Salinity Control Project (as amended by Pub. L. 96-336, September 4, 1980) and not used to firm Federal hydroelectric contract commitments within the Colorado River Basin will be allocated in accordance with the preference provisions of Section 9(c) of the Reclamation Project Act of 1939, in the following order:

1. Preference entities within the BCA Marketing Area;

2. Preference entities in adjacent Federal Marketing Areas;

3. Nonpreference entities in the BCA Marketing Area.

In the event that a potential contractor refuses an allocation offer or

refuses to place such power and energy under contract in accordance with the offered terms and conditions of these Criteria, the amounts of power and energy released by such refusal will be reallocated in accordance with the preference order above.

Section B. Parker-Davis Project

Parker-Davis Project power and energy is subject to offers to current Parker-Davis Project contractors and priority uses by the United States.

Western advised the City of Needles, California (Needles) by letter dated January 18, 1979, that the Deputy Secretary, of the Department of Energy, had elected to make power and energy available to Needles under the same terms and conditions as that which was available to Needles under terminated Contract No. 14-06-300-802. The option is to be available to be exercised by Needles until January 18, 1983, if Needles meets the requirements to become a preference customer. If Needles fulfills such requirements and exercises this option, Western will offer Needles an amount of power and energy for the post-1987 contract period equal to:

5,100 kW 17,800,868 kWh Summer
4,064 kW 6,752,053 kWh Winter

Amounts of power available for allocation from the Parker-Davis Project (part V) would be reduced accordingly.

Power reserved for United States priority use is power and energy which is reserved for Federal reclamation project use and irrigation pumping on certain Indian lands.

The phrase "Federal reclamation project use power" is defined for these Criteria to mean that power and energy which is needed for Federal reclamation projects in the Lower Colorado River Basin. Such projects are Federal reclamation facilities established for the protection and drainage works along the lower Colorado River. The following is a list of projects for which Federal reclamation project use power is reserved: Wellton-Mohawk Irrigation and Drainage District Plant Nos. 1, 2, and 3; relift and drainage pumps; construction camp sites; Yuma-Mesa Irrigation and Drainage District; Gila Project drainage pumps; and Colorado River Front Work and Levee System.

The phrase "power for irrigation pumping on certain Indian lands" is defined for these Criteria to mean Federal power and energy for use in irrigation pumping on Indian irrigation projects which are adjacent to the lower Colorado River south of Davis Dam and north of the border between the United States and Mexico.

Requests for withdrawals for Federal reclamation project use power and Indian irrigation pumping power have equal priority. Withdrawals of those amounts of withdrawable power and energy remaining with a contractor for United States priority use purposes may be made up to the total amount of power and energy reserved for those purposes.

Power and energy surplus to that reserved for United States priority uses and that reserved for offers to the current contractors will be allocated in accordance with preference provisions of section 9(c) of the Reclamation Project Act of 1939, in the following order:

1. Preference entities within the BCA marketing area
2. Preference entities in adjacent Federal marketing areas
3. Nonpreference entities in the BCA marketing area

In the event that a contractor or potential contractor refuses an allocation offer, or refuses to place such power and energy under contract in accordance with the terms and conditions of these Criteria, the amounts of power and energy released by such refusal will be reallocated in accordance with the preference order above.

Section C. Boulder Canyon Project

Electric service contracts, under new terms and conditions, will be offered to existing Boulder Canyon Project contractors. Allocations of the added power from Boulder Canyon Project uprating and energy generated in excess of that reserved for the above offers will be made after applications have been received and evaluated. Preference in the allocation of the power from the Boulder Canyon Project uprating program and the energy in excess of that reserved for the offers will be made in accordance with section 5(c) of the Boulder Canyon Project Act in the following order:

1. Preference entities within the BCA marketing area
2. Preference entities in adjacent Federal marketing areas
3. Nonpreference entities in the BCA marketing area

Preferece in the allocation of power from Boulder Canyon Project modifications will be in accordance with section 5(c) of the Boulder Canyon Project Act as may be amended by the legislation authorizing the modifications.

In the event that a contractor or potential contractor refuses an allocation offer, or refuses to place such power and energy under contract in accordance with the offered terms and conditions of these Criteria, the amounts of power and energy released by such refusal will be allocated in accordance with the preference order above.

Part V. Classes of Power and Sales Conditions

The amounts of power and energy which become available through additions or modifications to each Project, electric service contract terminations, and operational integration will be marketed as firm, peaking, and nonfirm classes of power.

As presently planned, the Boulder Canyon Project uprating program will increase the nameplate rating of Hoover Powerplant to approximately 1,800 MW at rated head. Although the amounts of power available for allocation as shown in part V., Classes of Power and Sales Conditions, are based upon Western carrying reserve and regulating power, Western will consider making an amount of power up to the nameplate rating of the Boulder Canyon Project as contingent power, provided the receiver will carry the necessary reserves.

Seasonal power entitlements and monthly energy entitlements shall be set forth in exhibits to the new BCA consolidated contract. These exhibits will be prepared annually or seasonally. Western will endeavor to make adjustments in monthly firm energy deliveries to approximate the individual contractor's load pattern. The extent to which Western will make adjustments will be contingent upon monthly energy availability and returned energy delivery schedules.

Section A. Firm Power

Firm power is intended to have assured availability to the contractor within energy limitations specified in these Criteria.

In order to allow Reclamation to comply with required water releases, to allow Western to receive purchased firming energy, and to enable Western to receive purchased firming energy, and to enable Western to receive returned energy from peaking power contractors during offpeak load hours, all firm power contractors may be required to schedule a minimum rate of delivery. The minimum scheduled rate of delivery for BCA firm power shall be established on a seasonal basis and may be increased or decreased as conditions dictate. The monthly minimum rate of delivery for each firm power contractor will be computed by dividing the number of kilowatthours to be taken during the month by a contractor at the minimum rate of delivery, by the number of hours in the month. The number of kilowatthours to be taken with the minimum rate of delivery will not

exceed 25 percent of the contractor's monthly energy entitlement.

1. Long-Term Firm Power. The maximum seasonal power entitlement for long-term firm power shall be available to a contractor during each month of the service season. The amount of energy associated with long-term firm power shall be the amount of energy specified in these Criteria and in BCA power sales contracts. Long-term firm power and energy in excess of renewal offers and priority uses which are available for allocation are as follows:

a. Navajo Generating Station: Long-term firm power and energy surplus to the needs of the Central Arizona Project and Title I Salinity Control Project (as amended by Pub. L 96-336, September 4, 1980) and not used to firm Federal hydroelectric contract commitments within the Colorado River Basin are available for allocation. Power contracts will contain a 3-year withdrawal provision. Amounts of power and energy estimated to be available after May 31, 1987, are as follows:

Navajo Available for Allocation

Season	MW	MkWh	kWh/kW
Winter	50	109	2,160

b. Parker-Davis Project: Western will offer the existing Parker-Davis Project contractors contracts for nonwithdrawable and withdrawable firm power and energy in individual amounts to be determined. Withdrawable power and energy will be subject to a 2-year withdrawal notice. The total amount of power and energy with Western recommends to be reserved for these offers is shown in appendix B. Western will make available for allocation the power and energy in excess of the offers and United States priority uses. Amounts of such excess power and energy which are estimated to be available for allocation after May 31, 1987, are as follows:

Parker-Davis Available for Allocation

Season	MW	MkWh	kWh/kW
Summer	30	103	3,433

c. Boulder Canyon Project: Western will offer the existing Boulder Canyon Project contractors contracts for firm power and energy in individual amounts to be determined. The total amount of power and energy which Western recommends to be reserved for these offers is shown in appendix C. The amount of energy in excess of that reserved for these offers, together with the added power estimated to be available upon completion of the Boulder Canyon Project upratings, will be made available for allocation as follows:

Boulder Canyon Available for Allocation

Season	MW	MkWh	kWh/kW
Summer	140	453	3,235
Winter	100	156	1,560

Reclamation's current schedule anticipates completion of the uprating program in the early 1990's. The amount of power available for allocation will be contracted for as power increases are developed.

2. Short-Term Firm Power. To the extent that power and energy in excess of long-term firm power contract commitments become available, short-term firm power may be offered. Contracts for short-term firm power will be offered on a seasonal or monthly basis as conditions permit.

Section B. Peaking Power

Peaking power without energy is intended to have assured availability to the contractor during peak periods of the day.

The maximum seasonal entitlement for long-term peaking power shall be available to a contractor during each month of the service season.

The energy available to deliver BCA long-term peaking power will average 40 kWh/kW/week in the summer season and 20 kWh/kW/week in the winter season. This amount of energy, plus losses, is to be returned by the contractor receiving the peaking power at mutually agreed upon times and rates of delivery normally during offpeak hours and days within a 7-calendar-day period following use.

1. Long-Term Peaking Power. Peaking power contracting periods will be subject to inservice dates of power additions and will be implemented through negotiated contracts not to exceed the long-term firm power contract term. Long-term peaking power available for allocation are as follows:

a. Navajo Generating Station: There is no long-term peaking power currently estimated to be available.

b. Parker-Davis Project: Long-term peaking power from the Parker-Davis Project will be offered in the following amounts:

Parker-Davis Available for Allocation

Season	MW
Summer	10
Winter	37

C. Boulder Canyon Project: Long-term peaking power from the Boulder Canyon Project will be offered, dependent upon completion of the Boulder Canyon Project uprating and modification programs, and will be contracted for as power increases are developed. The amounts currently estimated to be available are as shown below:

Boulder Canyon Available for Allocation

Season	MW
Upratings	
Summer	45
Winter	60
Modifications	
Summer	456
Winter	400

2. Short-Term Peaking Power. To the extent that power in excess of long-term peaking power contract commitments become available, short-term peaking power may be offered. Contracts for short-term peaking power will be offered on a seasonal or monthly basis as conditions permit.

Section C. Nonfirm Power and Other Arrangements

Nonfirm power is power and energy which does not have assured availability.

1. Short-Term Interruptible Power. Interruptible power is made available under contracts which permit curtailment of delivery by the BCA.

To the extent that power and energy in excess of firm power contract commitments become available, short-term interruptible power may be offered on a when-, as-, and if-available basis. Contracts for short-term interruptible power will be offered on a seasonal or monthly basis as conditions permit.

2. Fuel Replacement Energy. Western will continue to engage in a fuel replacement program in the BCA. Purchased energy and Project generated energy in excess of firm power contract commitments may be offered as fuel replacement energy.

3. Other Arrangements. Western, in its administrative discretion, may enter into interchange agreements, reserve agreements, load regulation agreements, maintenance and emergency service agreements, power pooling agreements, or other transactions.

Within the constraints of river operation, Western intends to permit the current Boulder Canyon Project contractors to schedule loaded and unloaded synchronized generation, the sum of which cannot exceed the power reserved for the individual contractor's contract offer. To the extent that energy entitlements are not exceeded, such previously scheduled unloaded synchronized generation may be used for regulation, ramping, and spinning reserves through the use of a dynamic signal. These functions will be developed by Western, in cooperation with the current Boulder Canyon Project contractors and implemented by contract and through written operating instructions.

Energy used for the purpose of supplying unloaded synchronized generation to current Boulder Canyon Project contractors will be supplied by the individual contractors as will be specified in the new BCA consolidated power sales contracts.

Part VI. Conditions of Delivery

Western, in cooperation with the contractor, will establish scheduling and accounting procedures based upon standard utility industry practices. These procedures shall be set forth in separate written instructions. Subject to Western's approval as to location and voltage, delivery will be made at BCA transmission system voltages, but not normally less than 69 kilovolts. Deliveries will continue to be made at lower voltages at powerplants and substation locations to customers already receiving such deliveries from Western.

Section A. Scheduling

Deliveries of BCA power and energy will generally be scheduled in advance, emergencies excepted, in accordance with procedures set forth in written instructions. If a contractor having an allocation of firm power also receives an allocation of peaking power, the peaking power may be used in conjunction with that contractor's energy entitlement without the return of energy. If a contractor must return energy, the energy will normally be delivered to Western during offpeak hours and/or days, within a 7-calendar-day period following use, at mutually agreed upon times, points, and rates of delivery.

Section B. Accounting

Deliveries of BCA power and energy normally will be accounted for on the basis of advance schedules, in accordance with the procedures set forth in written instructions. The instructions may also specify the conditions under which deliveries, which are greater or less than scheduled deliveries, will be corrected in later deliveries. The written instructions shall include procedures for determining amounts of BCA power and energy delivered to the contractor at each point of delivery and the procedures for determination and delivery of losses.

Section C. Designated Points of Delivery

Delivery will be made at designated points on the BCA transmission system at rates of delivery not to exceed the available capability of the transmission system. The designated points and transmission system are those specified by appendix D and appendix E, respectively, and may be modified as required.

Boulder Canyon Project power will be delivered at the switchboard in accordance with the Boulder Canyon Project Act. Navajo Generating Station power will be delivered at McCullough and Westwing Sub-stations. If the contractor cannot take delivery of the Boulder Canyon Project and the Navajo Generating Station power and energy at these designated delivery points, transmission service arrangements to other designated points of delivery will be necessary and will be the obligation of the contractor.

The designation of delivery points in appendix D and the transmission systems in appendix E do not imply any obligation for BCA to furnish additional facilities or to increase transmission or transformer capabilities at the designated points. Alternate or additional delivery points requested by the contractors will be permitted at the discretion of Western. Requests for taps on the BCA transmission system will be considered on a case-by-case basis and, if approved by Western, such taps shall be established at the contractor's sole expense.

Part VII. Conservation Measures

In accordance with the Department of Energy Organization Act of 1977 and Reclamation Law, Western is authorized to develop and implement energy conservation measures. Western will require that each of its power contractors have a written energy conservation program incorporated by reference in the contract. Contractors will be required to prepare and implement a program tailored to their own circumstances in accordance with broad guidelines developed by Western. Current operating conservation programs of power contractors which meet the guidelines will be acceptable.

Western will proposed the following general elements to achieve this conservation objective.

1. Contracts committing Federal power for the contracting period will provide that each contractor prepare, implement, and maintain a conservation program.

2. Conservation and renewable energy programs in effect prior to making application for power will be considered in Western's review and approval of each contractor's conservation program.

3. Contractors who prepare, implement, and maintain approved conservation programs will receive and continue to receive their full allocation of Federal power from Western in accordance with their contracts. Contractors who do not prepare, implement, and maintain approved conservation programs will receive a "Notice of Reduction" of their power and energy allocations. Such notices will provide that the allocations of power with and without energy will be reduced by 10 percent, 12 months from the date of notice. During the 12-month notice of reduction period, contractors will be encouraged to cure whatever problems exist with their conservation programs. Western will provide appropriate assistance upon request.

4. The contractor's record in the development, implementation, and maintenance of a conservation program will be considered in the allocation of future Federal resources and the future marketing of existing resources.

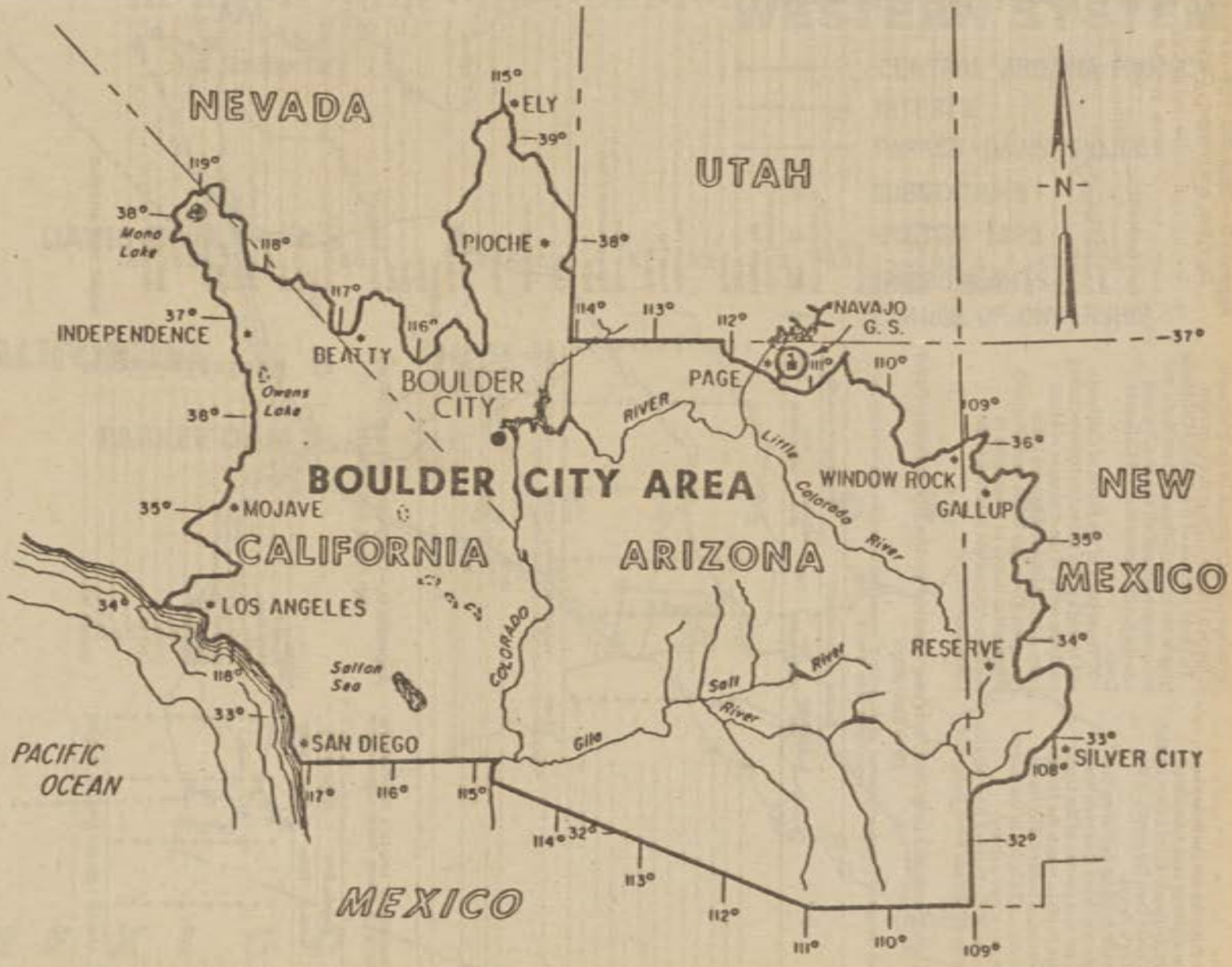
Issued at Golden, Colorado, September 16, 1981.

Robert L. McPhail,

Administrator.

BILLING CODE 6450-01-M

APPENDIX A



BILLING CODE 6450-01-C

Appendix A

Included in this area are the following:

A. All of the drainage area considered tributary to the Colorado River below a point 1 mile downstream from the mouth of the Paria River (Lee's Ferry).

B. The State of Arizona, excluding that portion lying in the Upper Colorado River Basin, except for that portion of the Upper Colorado River Basin in which the Navajo Generating Station is located. The Navajo Generating Station is included in the power marketing area as a resource only.

C. That portion of the State of New Mexico lying in the Lower Colorado River Basin and the independent Quemada Basin lying north of the San Francisco River drainage area.

D. Those portions of the State of California lying in the Lower Colorado River Basin and in drainage basins of all streams draining into the Pacific Ocean south of Calleguas Creek.

E. Those parts of the States of California and Nevada in the Lahontan Basin including and lying south of the drainages of Mono Lake, Adobe Meadows, Owens Lake, Amargosa River, Dry Lakes, and all closed independent basins or other areas in southern Arizona not tributary to the Colorado River.

Appendix B.—*Recommended Long-Term Firm Power Reserved for Allocation to Existing Parker-Davis Contractors*

[Energy Available to long-term firm power contractors will be equal to 67-percent load factor in the summer season and 47 percent in the winter season.]

User	Summer season kilowatts			Winter season kilowatts		
	Withdrawable	Non-withdrawable	Total	Withdrawable	Non-withdrawable	Total
Contractor:						
AEPCO	?	?	?	?	?	?
Mesa	?	?	?	?	?	?
CRIR	?	?	?	?	?	?
DCRR	?	?	?	?	?	?
EAFB	?	?	?	?	?	?
ED-3	?	?	?	?	?	?
IID	?	?	?	?	?	?
SRP	?	?	?	?	?	?
SCIP	?	?	?	?	?	?
Thatcher	?	?	?	?	?	?
WMIDD	?	?	?	?	?	?
YID	?	?	?	?	?	?
YPG	?	?	?	?	?	?
Subtotal	19,500	192,100	211,600	12,160	147,400	159,560
Priority uses:						
Federal			39,000			24,700
CRIR			3,400			1,740
Subtotal			42,400			26,440
Total			254,000			186,000

Appendix C.—*Recommended Long-Term Firm Power Reserved for Allocation to Existing Boulder Canyon Project Contractors*

Contractor	Capacity (kW)		Energy (MWh)	
	Summer	Winter	Summer	Winter
MWD	?	?	?	?
LADWP	?	?	?	?
SCE	?	?	?	?
Glendale	?	?	?	?
Pasadena	?	?	?	?
Burbank	?	?	?	?
APA	?	?	?	?
DCRR	?	?	?	?
Boulder City	?	?	?	?
Bureau of Mines	?	?	?	?
NPS	?	?	?	?
Total	1,436,000	1,266,000	2,566,047	1,099,736

Appendix D.—*Designated Points of Delivery, Tap Points, and Voltages*

	Kilovolts
Arizona:	
Adams Tap	115
Black Mesa	230
Bouse	161
Buckeye	161
Buckskin Tap	69
Bullhead Tap	69
Casa Grande	115
Do	12.5
Cochise	115
Coolidge	230
Do	115
Do	13.8
Do	12.5
Colorado Tap	69

Appendix D.—*Designated Points of Delivery, Tap Points, and Voltages*—Continued

	Kilovolts
Davis Switchyard	230
Do	69
Davis Tap	4.16
Duval-Warm Springs Tap	69
Eagle Eye	161
ED-2	115
Do	12.5
ED-4	115
Do	12.5
ED-5	115
Empire	115
Gila	161
Do	69
Do	34.5
Headgate Rock Tap	161
Hilltop Tap	230
Liberty	230
Marana	115
Maricopa	115
Do	69
Do	13.8
MEC Kingman Tap	69
Mesa	230
Do	69
Navajo Switchyard	500
Nogales Tap	115
Oracle	115
Phoenix	161
Do	69
Do	12.5
Pinnacle Peak	230
Planet Tap	69
Prescott	230
Do	115
Round Valley	230
Saguaro Generating Station	115
Signal	115
Do	12.5
Tucson	115
Do	14.4
Weltion-Mohawk	161
Do	34.5
Westwing	500
Do	230
Yuma Tap	34.5
Yuma Mesa	34.5
California:	
Blythe	161
Gene	230
Knob	161
Parker Switchyard	230
Do	161
Do	69
Senator Wash	69
Nevada:	
Amargosa	138
Basic	230
Do	13.8
Boulder City Switchyard	69
Boulder City Tap	230
Clark Tie	230
Hoover Switchyard	230
Do	138
Do	69
Mead	230
McCullough Switchyard	500
Do	230

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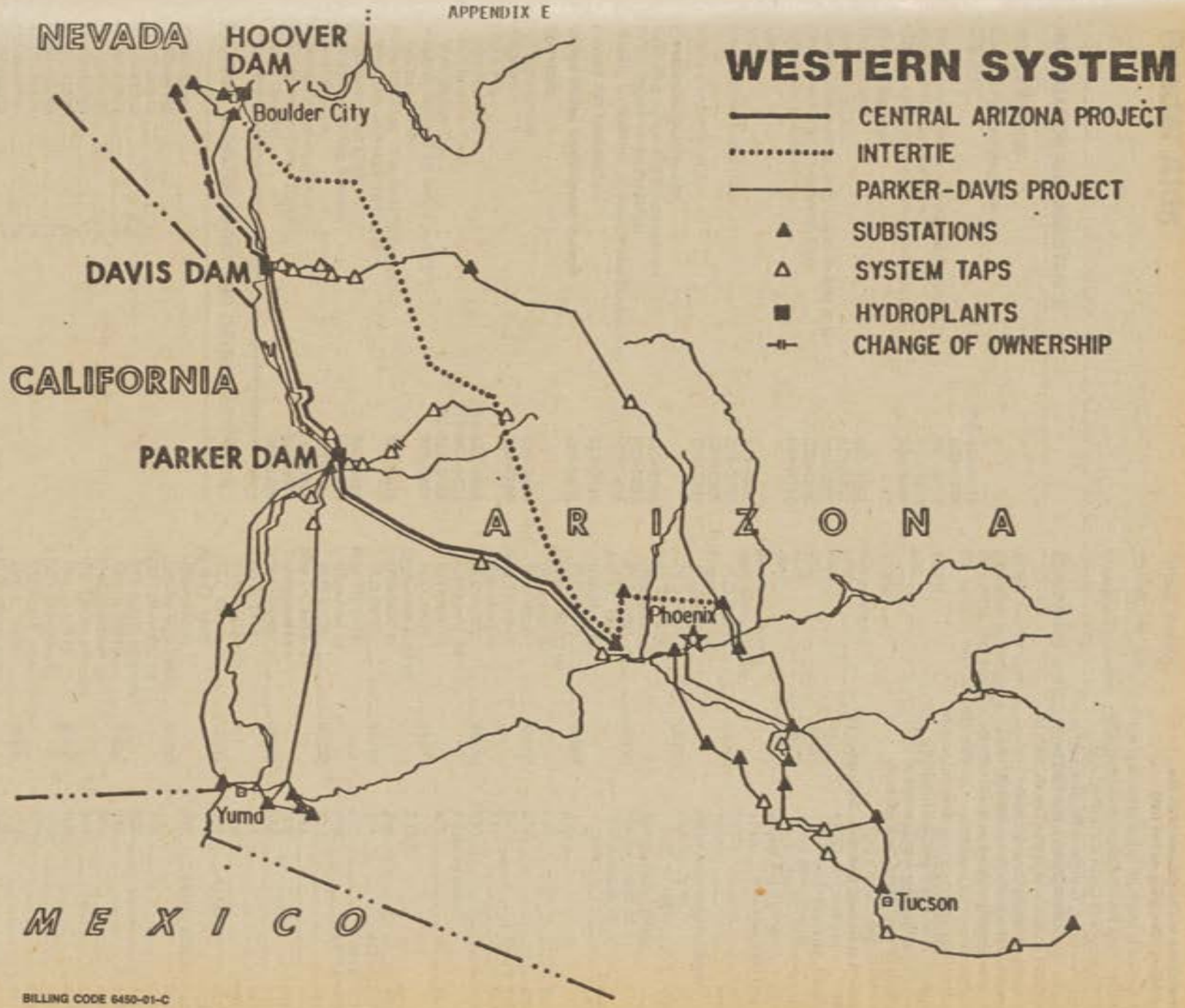


BILLING CODE 6450-01-C

Certification of Compliance With the Regulatory Flexibility Act of 1980

I, Robert L. McPhail, Administrator of the Western Area Power Administration, certify that the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects which will be published on or about September 18, 1981, is not a rule within the meaning of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), will not have a significant economic impact on a substantial number of small entities and, therefore, does not require the preparation of a regulatory flexibility analysis nor the other requirements of sections 603 and 604 of the Regulatory Flexibility Act.

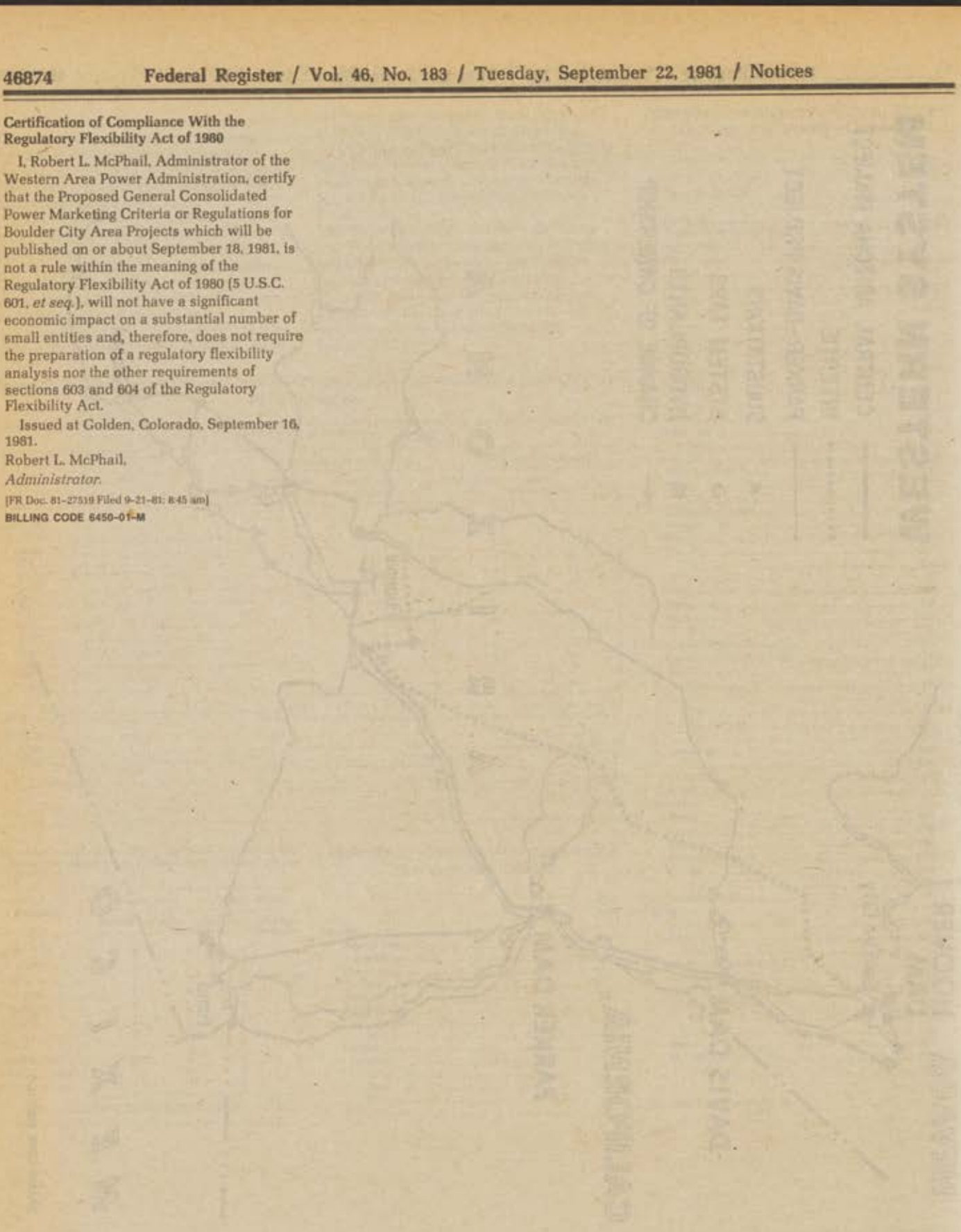
Issued at Golden, Colorado, September 16, 1981.

Robert L. McPhail,

Administrator.

[FR Doc. 81-27519 Filed 9-21-81; 8:45 am]

BILLING CODE 6450-01-M



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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 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/FSIS**		DOT/FAA	USDA/FSIS**
DOT/FHWA	USDA/FSQS**		DOT/FHWA	USDA/FSQS**
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/MA*	MSPB/OPM		DOT/MA*	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*Note: The Maritime Administration will begin Mon./Thurs. publication as of Oct. 1, 1981.
**Note: As of September 14, 1981, documents received from Food Safety and Inspection Service (formerly Food Safety and Quality Service) will no longer be assigned to the Tues./Fri. publication schedule.

REMINDERS

List of Public Laws

Last Listing August 26, 1981

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 62/Pub. L. 97–44 To authorize and request the President to designate the week of September 20 through 26, 1981, as "National Cystic Fibrosis Week". (Sept. 17, 1981; 95 Stat. 948) Price: $1.50.