2-3-81
Vol. 46 No. 22
Pages 10451-10704

federal register

Tuesday
February 3, 1981

Highlights

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Highlights

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Rules and Regulations

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GENERAL ACCOUNTING OFFICE

4 CFR Part 20

Clearance of Proposals by Independent Federal Regulatory Agencies to Conduct or Sponsor Collection of Information

AGENCY: General Accounting Office.

ACTION: Modification of procedures for handling clearance requests prior to effective date of Paperwork Reduction Act of 1980.

SUMMARY: The Paperwork Reduction Act of 1980, Pub. L. No. 96–511, 94 Stat. 2812, amends the Federal Reports Act of 1942, to transfer responsibility for review of reporting requirements for independent regulatory agencies from the General Accounting Office (GAO) to the Office of Information and Regulatory Affairs in the Office of Management and Budget, effective April 1, 1981. This rule establishes the procedure by which GAO will continue to accept reports from independent regulatory agencies prior to April 1, 1981 and constitutes a modification of GAO regulations published on July 2, 1974 (39 FR 24345) and August 20, 1975 (40 FR 36295) and codified as Part 20 to Title 4, Code of Federal Regulations. These regulations are to be revoked, effective April 1, 1981.

EFFECTIVE DATE: January 26, 1981.

FOR FURTHER INFORMATION CONTACT: Norman F. Heyl, Regulatory Reports Review Officer, U.S. General Accounting Office, 441 G Street, N.W., Washington, D.C. 20548, (202) 275–3532.

SUPPLEMENTARY INFORMATION: GAO was assigned certain review and clearance responsibilities for information collection requirements of independent regulatory agencies by Section 409 of Pub. L. No. 93–153, 87 Stat. 573, Nov. 16, 1973, which added a section 3512 to chapter 35 of title 44, United States Code (the Federal Reports Act of 1942, as amended). Under subsection 3512(b), GAO was required to conduct general reviews of all information-gathering practices of independent Federal regulatory agencies with a view toward avoiding duplication of effort in, and minimizing the compliance burden imposed by such practices. GAO was also required by subsection 3512 (c) and (d) to conduct advance clearance reviews of new or revised proposals by independent Federal regulatory agencies to conduct or sponsor the collection of information from 10 or more persons.

The Paperwork Reduction Act of 1980, Pub. L. No. 96–511, 94 Stat. 2812, December 11, 1980, transferred GAO's clearance and review responsibilities to the OMB, in effect terminating the Comptroller General's authority to approve collections by independent regulatory agencies, effective April 1, 1981. Since the new Act changes the criteria by which collections are to be evaluated and ends GAO review jurisdiction over such collections, and since the current law, 44 U.S.C. 3512(d), permits GAO to take up to 45 days to advise these agencies as to whether a proposed collection of information meets the requirements of the Federal Reports Act, a modification of GAO procedures at this time is necessary to provide for an orderly transition by the effective date of the new law.

Status of Requests for Clearance Received February 13–27, 1981

GAO will continue to process clearance requests received from independent regulatory agencies as provided by 4 CFR Part 20 until February 13, 1981, 45 days before the effective date of the Paperwork Reduction Act of 1980. Requests received from February 14 through February 27, 1981, will be accepted and acted on by March 31, 1981, if time permits. Any clearance requests for which review has not been completed by March 31, 1981, will be returned to the requesting agency for resubmission to OMB.

Status of Requests for Clearance Received March 1981

During March 1981, GAO will accept only emergency requests for clearance review. Such requests must meet the following criteria: (1) Public harm will result if normal clearance procedures are followed, or (2) an unanticipated event has occurred and the use of normal clearance procedures will prevent or disrupt the collection of information related to the event. Any emergency clearance requests for which review has not been completed by March 31, 1981, will be returned to the requesting agency on that date for resubmission to OMB.

Expiration Date

Since the amended 44 U.S.C. 3512 requires all information collection requests to display an OMB control number after December 31, 1981, all clearances granted by GAO during the period January through March 1981 will bear an expiration date no later than December 31, 1981.

Elmer B. Staats,
Comptroller General of the United States.

[FR Doc. 81–3559 Filed 2–2–81; 8:45 am]
BILLING CODE 1610–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Amendment to Regulations Relating to Fees and Charges for Permissive Inspection

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: These regulations modify the existing fees and charges for permissive inspection of tobacco pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; U.S.C. 511 *et seq.*).

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas A. VonGarlem, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2567.

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 *et seq.*), notice is hereby given that the Department is amending Subparts B and F of 7 CFR, Part 29, relating to fees and charges for permissive inspection of tobacco.

The Department is amending § 29.123 of Subpart B—Regulations, relating to

fees and changes for services performed under an agreement and other than under an agreement. For previous amendments of Subparts B and F see 21 FR 3669, May 30, 1956; 25 FR 4948, June 4, 1960; 40 FR 44112, September 25, 1975; 41 FR 18425, May 4, 1976; 41 FR 53649, December 8, 1976; 43 FR 9586, March 9, 1978; and 43 FR 59469, December 21, 1978.

The Tobacco Inspection Act authorizes official inspection and grading of tobacco. Such inspection and grading service is either mandatory or permissive. Mandatory inspection, as defined in 7 CFR 29.71, consists of inspecting and certifying tobacco, free of charge, on designated markets, as defined in 7 CFR 29.1(e), before it is offered for sale. Permissive inspection, as defined in 7 CFR 29.56, consists of inspecting, including sampling and weighing, and certificating, and is made available to interested parties on a fee basis. The Act requires such fees to be reasonable, and as nearly as possible, to cover the cost of performing the services.

Additionally, the Department is amending § 29.9252 of 7 CFR, Part 29, appearing in Subpart F, which establishes the fees and charges for permissive inspection of nonquota Maryland tobacco, U.S. Type 32, produced and marketed in a quota area. The amended section provides that the fees charged for such inspection are the same as the fees provided for in 7 CFR 29.123, as amended herein.

This amendment updates the regulations under which permissive tobacco inspection and grading services are provided by increasing the hourly salary fees charged to users of this service.

Because salaries paid to Federal employees have been increased under the provisions of Public Law 95–66 and Executive Order 12010, it has been determined that in order to cover the costs of providing permissive tobacco inspection, the hourly salary fee must be increased as provided for herein.

The provisions of 7 CFR, Part 29, § 29.123 and 29.9251, prescribing fees and charges in connection with the performance of permissive inspection are hereby amended by changing the phrases "$15.50 per hour," "$18.50 per hour," and "$23.20 per hour," to $17.80 per hour," "21.30 per hour," and "26.70 per hour," respectively.

Therefore, the regulations are amended as follows:

§ 29.123 Fees and charges.

The fees and charges for inspection under an agreement or other than under an agreement are as follows:

(a) Fees and charges for inspection at redrying plants and receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly salary rate shall be $17.80. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $21.30. The rate of $26.70 shall be charged for work performed on Sundays or holidays.

(b) The fees or charges for hogshead, bale or case inspection shall comprise the same costs as provided in paragraph (a) of this section.

(c) The fees or charges for sample inspection shall comprise the same costs as provided in paragraph (a) of this section.

§ 29.9251 Fees and charges.

Fees and charges for inspection and certification services performed under an agreement or other than under an agreement are as follows:

Fees and charges for inspection and certification services at receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly salary rate shall be $17.80. The overtime rate for services performed outside the inspector's regularly scheduled tour of duty shall be $21.30. The rate of $26.70 shall be charged for work performed on Sundays or holidays.

It is hereby found and determined that public procedures with respect to this amendment are impractical and unnecessary based on predetermined needs for amending these regulations to meet increased inspection costs. Good cause exists to waive the 60-day advance notice of the effective date of this amendment.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

January 29, 1981.

[FR Doc. 81-3942 Filed 2-2-81; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; (Docket No. R-0348)]

Interest on Deposits; Technical Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendments; rescission of interpretations.

SUMMARY: Pursuant to its authority under section 19 of the Federal Reserve Act, as amended, the Board has amended Regulation Q (Interest on Deposits) to incorporate the rules of the Depository Institutions Deregulation Committee ("DIDC"), adopted pursuant to the Depository Institutions Deregulation Act of 1980. The amendments to Regulation Q are technical in nature.

EFFECTIVE DATE: January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), Anthony F. Cole, Senior Attorney (202/452–3612) or John Harry Jorgenson, Attorney (202/452–3778), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221) transfers to the DIDC the authority conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) upon the Board (and the similar authority of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board) to prescribe rules relating to the payment of interest on deposits. The DIDC has issued final regulations concerning: (1) withdrawal of interest from a time deposit (12 CFR 1204.101; 45 FR 31710); (2) payment of interest on a time deposit after maturity (12 CFR 1204.102; 45 FR 31711); (3) penalty for early withdrawals on time deposits (12 CFR 1204.103; 45 FR 37801 and 40109) and the penalty for early withdrawals from an IRA or a Keogh Plan account within seven days of opening the account (12 CFR 1204.113; 45 FR 84987); (4) interest rate ceilings on 26-week money market time deposits (12 CFR 1204.104) and on 2½ year small saver certificates (12 CFR 1204.106; 45 FR 37803); (5) interest rate ceiling on NOW accounts (12 CFR 1204.108; 45 FR 68644); and (6) premiums not considered payment of interest (12 CFR 1204.109), finders fees (12 CFR 1204.110), prepayment of interest and payment of interest in merchandise (12 CFR 1204.111; 45 FR 68641). In view of these actions by the DIDC, the Board is amending Regulation Q to incorporate these changes. The Board's interpretations concerning the use of premiums by member banks (12 CFR 217.147), the prepayment of interest by member banks (12 CFR 217.149) and the withdrawal of interest by depositors prior to maturity (12 CFR 219.154) also

are being rescinded in view of the provisions adopted by the DIDC.

The Board has also rescinded section 217.6(i) of Regulation Q, which limits the advertising of negotiable order of withdrawal (NOW) accounts to residents of States in which NOW accounts are authorized. This provision is no longer necessary because NOW accounts may be issued by all depository institutions nationwide pursuant to the Consumer Checking Account Equity Act of 1980 (Title III of Pub. L. 96–221).

The following table presents the provisions of Regulation Q that have been amended by the DIDC's actions.

DIDC rule	Regulation Q provision amended
1204.101—Withdrawal of interest	217.4(d)
1204.102—Payment of interest after maturity	217.3(f)
1204.103—Penalty for early withdrawals	217.4(d)
1204.104—Interest rate ceilings on 26-week money market certificates	217.7(f)
1204.106—Interest rate ceilings on 2½-year small saver certificates	217.7(g)
1204.108—Interest rate ceilings on NOW accounts	217.7(c)
1204.109—Premiums not considered payment of interest	217.147
1204.110—Finders fees	217.147
1204.111—Prepayment of interest and payment of interest in merchandise	[1] 217.147
1204.1013—Penalty for early withdrawal IRA and Keogh Plan accounts within 7 days of opening the account	217.4(d)

[1] Supersedes board interpretations 217.149 and 217.154.

Because these amendments are necessary to conform the Board's rules to those of the DIDC, the Board for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are unnecessary and contrary to the public interest.

Pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461, 371b) to prescribe rules to effectuate the purposes of that section and to prevent evasions thereof, Regulation Q (12 CFR Part 217) is amended as follows:

1. Section 217.3(f) of Regulation Q (12 CFR Part 217.3(f)) is amended by adding the following sentences:

§ 217.3 [Amended]

* * * * *

(f) *No interest after maturity or expiration of notice.*

Provided, however, that a member bank may provide in any time deposit contract that if the deposit, or any portion thereof, is withdrawn not more than seven days after a maturity date, interest will be paid thereon at the originally specified contract rate. A member bank may specify in the time deposit contract that interest will be paid at any other lower rate. However, in no event may the rate specified be less than the current rate paid on savings deposits by the member bank.

2. Section 217.4(d) (12 CFR Part 217.4(d)) is revised to read as follows:

§ 217.4 [Amended]

* * * * *

(d) *Penalty for early withdrawals.*

(1)(i) For time deposit contracts entered into before July 1, 1979, that have not been renewed or extended on or after July 1, 1979, the following minimum early withdrawal penalty shall apply. Where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that prescribed in § 217.7 for a savings deposit and, in addition, the depositor shall forfeit three months of interest payable at such rate. If, however, the amount withdrawn has remained on deposit for three months or less, all interest shall be forfeited.

(ii) For time deposit contracts entered into, renewed, or extended on or after July 1, 1979, but prior to June 2, 1980, that have not been renewed or extended on or after June 2, 1980, the following minimum early withdrawal penalty shall apply:

(A) Where a time deposit with an original maturity or required notice period of one year or less, or any portion thereof, is paid before maturity or before the expiration of the required notice period, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. If the amount withdrawn has remained on deposit for less than three months, all interest on the amount withdrawn shall be forfeited.

(B) Where a time deposit with an original maturity or required notice period of more than one year, or any portion thereof, is paid before maturity or before the expiration of the required notice period, a depositor shall forfeit at least six months of interest on the amount withdrawn at the rate being paid on the deposit. If the amount has remained on deposit for less than six months, all interest on the amount withdrawn shall be forfeited. (The provisions of this subparagraph (ii) may be applied, with the consent of the depositor, to time deposits specified in paragraph (d)(1)(vi) of this section.)

(iii) For time deposit contracts entered into, renewed, or extended on or after June 2, 1980, the following minimum early withdrawal penalty shall apply:

(A) Where a time deposit with an original maturity or required notice period of less than three months, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to the amount of interest that could have been earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit had the funds remained on deposit until maturity.

(B) Where a time deposit with an original maturity or required notice period of three months or more to one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to three months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

(C) Where a time deposit with an original maturity or required notice period of more than one year, or any portion thereof, is paid before maturity, a depositor shall forfeit an amount at least equal to six months of interest earned, or that could have been earned, on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit, regardless of the length of time the funds withdrawn have remained on deposit.

(2) Notwithstanding the provisions of paragraph (d)(1), where a time deposit, or any portion thereof, maintained in an Individual Retirement Account established in accordance with 26 U.S.C. 408 is paid before maturity within seven days after the establishment of the Individual Retirement Account pursuant to the provisions of 26 CFR 1.408–(1)(d)(4), or where a time deposit, or any portion thereof, maintained in a Keogh (H.R. 10) Plan account established in accordance with 26 U.S.C. 401 is paid before maturity within seven days after the establishment of the Keogh (H.R. 10) Plan, a depositor shall forfeit an amount at least equal to the interest earned on the amount withdrawn at the nominal (simple interest) rate being paid on the deposit.

(3) A member bank, with the depositor's consent, may compute the minimum penalty required to be imposed on withdrawals from time deposits opened prior to June 2, 1980, on the basis of the nominal (simple interest) rate.

(4) Where necessary to comply with the requirements of this paragraph, any interest already paid to or for the account of the depositor shall be deducted from the amount requested to be withdrawn.

(5) Any amendment of a time deposit contract that results in an increase in the rate of interest paid or in a reduction in the maturity of the deposit constitutes

a payment of the time deposit before maturity.

(6) For purposes of computing the penalty required to be imposed under this paragraph, under a time deposit agreement that provides that subsequent deposits reset the maturity of the entire account, each deposit maintained in the account for at least a period equal to the original maturity of the deposit may be regarded as having matured individually and been redeposited at intervals equal to such period. When a time deposit is payable only after notice, for funds on deposit for at least the notice period, the penalty for early withdrawal shall be imposed for at least the notice period.

(7) A member bank may permit a depositor to withdraw interest credited to a time deposit during any term at any time during such term without penalty. If the deposit or account is automatically renewed on the same terms (including at the same rate of interest), interest credited during the preceding term or terms as well as the renewal term may be paid at any time during the renewal term without penalty, unless the deposit agreement specifically provides otherwise. If the rate of interest paid during the renewal term or the maturity period of the renewal term is different, interest in the account at the commencement of the renewal term shall be treated as principal, and only interest for the renewal term may be paid at any time without penalty during such term.

(8) A time deposit, or a portion thereof, may be paid before maturity without a forfeiture of interest as prescribed by this paragraph in the following circumstances:

(i) Where a member bank pays all or a portion of a time deposit representing funds contributed to an Individual Retirement Account or a Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (IRC 1954) 408, 401 when the individual for whose benefit the account is maintained attains age 59½ or is disabled (as defined in 26 U.S.C. (IRC 1954) 72(m)(7)) or thereafter; or

(ii) Where a member bank pays that portion of a time deposit on which Federal deposit insurance has been lost as the result of the merger of two or more Federally insured banks in which the depositor previously maintained separate time deposits, for a period of one year from the date of the merger.

(9) A time deposit, or the portion thereof requested, must be paid before maturity without a forfeiture of interest as prescribed by this paragraph in the following circumstances:

(i) Where requested, upon the death of any owner [11] of the time deposit funds: or

(ii) Where requested, when the owner[11] of the time deposit is determined to be legally incompetent by a court or other administrative body of competent jurisdiction.

§ 217.6 [Amended]

3. Section 217.6 of Regulation Q (12 CFR Part 217.6) is amended by removing paragraph (i) and redesignating paragraph (j) as paragraph (i).

4. Section 217.7 of Regulation Q (12 CFR Part 217.7) is amended by revising paragraphs (c), (f) and (g) to read as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(c) *Savings deposits.* No member bank shall pay interest at a rate in excess of 5¼ per cent on any savings deposit. No member bank shall pay interest at a rate in excess of 5¼ percent on any savings deposit that is subject to negotiable orders of withdrawal, the issuance of which is authorized by Federal law.

* * * * *

(f) *26-week money market time deposits of less than $100,000.* Except as provided in paragraphs (a), (b) and (d) of this section, a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks at a rate not to exceed the rates set forth below:

Bill rate [1]	Maximum percent
7.50 percent or below	7.75
Above 7.50 percent	([2])

[1] Rate established (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit ("Bill Rate").
[2] Bill rate plus ¼ of 1 percent.

Rounding rates to the next higher rate is not permitted and interest may not be compounded during the term of this deposit. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) An individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (IRC 1954) 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by an Federally insured savings and loan association or mutual savings bank.[3]

(g) *Time deposits of less than $100,000 with maturities of 2½ years or more.* Except as provided in paragraphs (a), (b), (d) and (e) of this section, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more that is issued on or after Thursday of every other week at a rate not to exceed the higher of one-quarter of one per cent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury immediately prior to such Thursday, or 9.25 per cent. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. Except as provided below, in no event shall the rate of interest paid exceed 11.75 per cent. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) The United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) An individual pursuant to an Individual Retirement Account agreement of Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) 408, 401,

[11] For the purposes of this provision, an "owner" of time deposit funds is any individual who died or was determined to be incompetent on or after August 1, 1979, and who at the time of his or her death or determination of incompetence had full legal and beneficial title to all or a portion of such funds or, at the time of his or her death or determination of incompetence, had beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto.

[3] The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is 7.75 per cent when the Bill Rate is 7.25 per cent or lower, one-half of one per cent above the Bill Rate when the Bill Rate is above 7.25 per cent but below 8.50 per cent, 9.00 per cent when the Bill Rate is 8.50 per cent or above but below 8.75 per cent, and one-quarter of one per cent above the Bill Rate when the Bill Rate is 8.75 per cent of above.

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.[4]

* * * * *

5. Section 217.147 of Regulation Q (12 CFR Part 217.147) is revised to read as follows:

§ 217.147 Premiums, Finders Fees, Prepayment of Interest and Payment of Interest in Merchandise.

For regulatory provisions relating to premiums, finders fees, prepayment of interest and payment of interest in merchandise refer to 12 CFR 1204.109, 1204.110, 1204.111 and 1204.114.

§§ 217.149, 217.154 [Removed]

6. Sections 217.149 and 217.154 of Regulation Q (12 CFR §§ 217.149 and 217.154 are hereby removed.

By order of the Board of Governors of the Federal Reserve System, January 15, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81-4026 Filed 2-2-81; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 118

[Amdt. 4]

Handicapped Assistance Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration is amending its regulations which govern loan assistance to organizations, groups, etc. that provided service to handicapped persons. The regulations are amended to clarify that the interest rate SBA will charge on its portion of a guaranteed loan remains at the note rate after purchase, not an arbitrary 8 percent rate. This amendment is necessary to implement a provision of Pub. L. 93-386—The Small Business Amendments of 1974 which allow the SBA to charge the rate of interest provided in the note.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Questions about this rule can be directed to: Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653-6470.

SUPPLEMENTARY INFORMATION: SBA did receive two phone calls from interested parties that wanted clarification of the proposed change that was published on October 15, 1980 (45 FR 68398). SBA did not, however, receive any written comments on the proposed change.

Accordingly, pursuant to the authority in section 5(b)(6) of the Small Business Act (15 U.S.C. 634), § 118.31(d) is revised to read as follows:

§ 118.31 Terms and conditions.

* * * * *

(d) The interest rate on SBA's share of a guaranteed loan after purchase by SBA shall be the same as in § 120.3(b)(2) in Part 120 of this chapter.

(Catalog of Federal Domestic Assistance Program No. 59.021, Handicapped Assistance Loans)

Dated: January 26, 1981.

Roger H. Jones,

Acting Administrator.

[FR Doc. 81-3884 Filed 2-2-81; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 119

[Rev. 2, Amdt. 2]

Economic Opportunity Loans; Clarification of Interest Rates

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration is amending its regulations which govern loans under the Economic Opportunity Loan Program. The amendment clarifies that the interest rate that SBA will charge on its portion of a guaranteed loan under this program will remain at the note rate after purchase, not an arbitrary 8 percent rate. The amendment is necessary to implement a provision of Pub. L. 93-386—The Small Business Amendments of 1974 which allow the SBA to charge the rate of interest provided for in the note.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Questions about this rule can be directed to: Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6470.

SUPPLEMENTARY INFORMATION: SBA did receive two phone calls from interested parties that wanted clarification of the proposed change that was published on October 15, 1980 (45 FR 68399). SBA did not, however, receive any written comments on the proposed change.

Accordingly, pursuant to the authority in section 5(b)(6) of the Small Business Act (15 U.S.C. 634), § 119.31(c) is revised to read as follows:

§ 119.31. Terms and conditions.

* * * * *

(c) * * *

(3) The interest rate on SBA's share of a guaranteed loan after purchase by SBA shall be the same as in § 120.3(b)(2) in Part 120 of this chapter.

(Catalog of Federal Domestic Assistance Program No. 59.003, Economic Opportunity Loans)

Dated: January 26, 1981.

Roger H. Jones,

Acting Administrator.

[FR Doc. 81-3885 Filed 2-2-81; 8:45 am]

BILLING CODE 8025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 207

[Reg. ER-1209; Economic Regulations; Amendment No. 27 to Part 207, Docket 38022]

Charter Trips and Special Services; Amendment of Rules for Pro Rata and Single Entity Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata and single entity charters to remove the limitation on the commission that carriers can pay to travel agents and to permit payments and donations from carriers and travel agents to chartering organizations or their individual members.

DATES: Adopted: January 21, 1981. Effective: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Performance Incentives Company (PIC) filed a petition to eliminate several of the Board's rules governing charters in 14 CFR Parts 207 and 208. Specifically, PIC asked that §§ 207.23 and 208.202 be revoked. These two sections apply to pro rata (affinity) charters and limit the commission that a travel agent may receive from a carrier to 5 percent of the total charter price, or the amount paid to an agent by a carrier certificated to serve the route involved, whichever is greater. A similar limitation on agent commissions is found in §§ 207.52 and 208.302, applicable to single-entity charters, and in §§ 212.23, 212.52, 214.15, and 214.42, applicable to charters by foreign air carriers.

[4] The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is one-quarter of one per cent above the rate that may be paid by member banks.

By EDR-397, 45 FR 26083, April 17, 1980, the Board proposed to revoke sections dealing with limitations on agents' commissions and other provisions limiting affinity charters. Originally, the 5-percent limitation on commissions was intended to hold down the volume of charters lest they detract from scheduled service. We have abandoned that policy in favor of letting market forces decide the service mix with minimum regulation. In addition, the Board recently disapproved intercarrier agreements setting commission rates for sales of international (Order 78-8-87) and domestic (Order 80-2-33) scheduled transportation. The Board finds no difference between scheduled and charter transportation that would justify a limitation on one group of agents and not the other.

All the commenters argued the commission ceiling was anticompetitive and supported its elimination. Therefore, the Board revokes §§ 207.23, 207.52, 208.202, 208.302, 212.23, 212.52, 214.15, 214.42. With the removal of the 5-percent commission limitation, there is no longer any need to prohibit agents from receiving compensation from both direct air carriers and charterers. Sections 207.30, 208.203, 212.30, and 214.20 dealing with the prohibition against double compensation are therefore being revoked.

In its petition, PIC also asked the Board to reconsider the prohibition of payments or donations by carriers or travel agents to the chartering orgnization or to individual charter participants found in §§ 207.15, 208.35, 212.12, 214.16 and 214.21. These rules were designed to prevent a carrier from making financial arrangements with the chartering organization that varied from its charter tariff on file with the Board. In EDR-397, the Board proposed to revoke these sections because, with the abolition of charter tariffs, the reason for the rule no longer exists. Portions of §§ 207.43(c), 208.213(c), 212.43(c), and 214.33(c) dealing with this prohibition against donations were inadvertently omitted from the NPRM and are also revoked by this final rule. Apart from this oversight, no objection to this proposed action was made by the commenters.

Finally, PIC asked the Board to examine other sections placing limitations on affinity-group pro rata charters. These sections 1) require that passengers on pro rata charters be characterized as either "member," "relative," or "special," 2) prohibit the solicitation of individuals by a carrier until the contract with the chartering group is signed, and 3) prohibit chartering organizations from making charges to participants that exceed their actual cost in making the charter arrangements. The NPRM suggested no changes in these provisions.

In its comments, Transamerica Airlines, Inc. objected to the Board's refusal to revoke or amend these provisions. In particular, Transamerica requested that § 208.200a be revoked so that carriers can directly solicit individuals in an affinity group before a charter contract is signed. In addition, it requested that carriers be permitted to employ people to solicit and coordinate members of an affinity group to make a charter flight. Transamerica argued that the current prohibitions infringe on carriers' First Amendment Rights by limiting the promotion of their product.

Affinity charters are designed for existing groups or organizations sharing a common interest other than a particular charter flight. The group as a whole, rather than its individual members, contracts with a carrier for air transportation services without the aid of an intermediary charterer. The absence of a middleman and the combined strength of an existing organization whose members share a common interest make a heightened level of consumer protection for the individual passenger unnecessary. The affinity group passenger must be distinguished from the Public Charter passenger who contracts with an intermediary charterer with whom he has no connection apart from the charter flight. Because the Public Charter passenger has no group to protect his rights, greater consumer protection requirements are imposed on Public Charters.

The Board proposed to eliminate affinity charters and replace them entirely with Public Charters. Because of the opposition of many organizations, the Board in SPR-149, 43 FR 36604, August 18, 1978, decided to authorize the new Public Charters but to allow affinity charters to continue. However, as long as we maintain financial protection requirements for Public Charters, we need these restrictions to limit and define the type of charters that may be run without them. If a carrier wishes to directly solicit members of a group, it may do so as long as it complies with the financial security and consumer protection provisions of Part 380.

Transamerica also objected to the Board's refusal to revoke § 208.213 (c) and (d), dealing with charter costs. These comments are the subject of an NPRM, EDR-419, issued today.

Most of the remaining comments requested the Board to further liberalize its affinity charter requirements. Specifically, Transamerica requested the Board to reconsider the present limitation on one-way affinity charter flights, interminingling of passengers between pro rata charter flights, the 6-month membership requirement, and the requirement that the charterer provide information on its passengers. These suggestions were recently considered and denied in ER-1176, 45 FR 40572, June 16, 1980, ER-1177, 45 FR 40574, June 16, 1980, ER-1178, 45 FR 40575, June 16, 1980, and ER-1179, 45 FR 40575, June 16, 1980. Because no new argument for amending these rules has been advanced, no change is made by this issuance.

Finally, two commenters requested the Board to act in other rulemakings dealing with charter flights. Two of the rulemakings are no longer pending, and a final rule will be issued shortly in the third. EDR-311, 41 FR 46424, October 21, 1976, proposed to amend the charter rules involving "low-ball" affinity charter price quotations. That rulemaking was terminated by EDR-328B, 45 FR 61640, September 17, 1980, when the Board decided that the practice of stating taxes and incidental charges separately from the basic tour price was not in itself an unfair and deceptive practice. ER-1126, 44 FR 33053, June 8, 1979 adopted, in substance, the proposal in EDR-382, 44 FR 36065, June 20, 1979, to reduce the minimum charter size for pro rata and single entity charters from 40 to 20 persons and to require a warning in all solicitation materials for pro rata charters. A final rule involving verification of charter passenger lists as discussed in EDR-394, 45 FR 2331, January 11, 1980, will be issued shortly.

Since this rule relieves a restriction the Board finds that it may take effect immediately.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 207, *Charter Trips and Special Services*, as follows:

1. The authority for Part 207 is:

Authority: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 418, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 758, 760, 766, 769, 771, 788; 91 Stat. 1284; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1388, 1482.

§§ 207.15, 207.23, 207.30, 207.52 [Reserved]

2. Sections 207.15, 207.23, 207.30, and 207.52 are removed and reserved.

3. Section 207.43(c) is revised to read:

§ 207.43 Charter Costs.

* * * * *

(c) Reasonable administrative costs of organizing the charter may be divided

among the charter participants. Such cost may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-3678 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 208

[Economic Regulations Amendment No. 27 to Part 208, Docket: 38022; Regulation ER-1210]

Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation; Amendment of Rules for Pro Rata and Single Entity Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata and single entity charters to remove the limitation on the commission that carriers can pay to travel agents and to permit payments and donations from carriers and travel agents to chartering organizations or their individual members.

DATES: Adopted: January 21, 1981. Effective: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: A full discussion of this action is in ER-1209, adopted today.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 208, *Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation,* as follows:

1. The authority for Part 208 is:

Authority: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 417, 1002, Pub. L. 85-726, 72 Stat. 737, 740, 743, 754, 758, 760, 766, 769, 771, 788, 76 Stat. 145; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387, 1482.

§§ 208.35, 208.202, 208.203, 208.302 [Reserved]

2. Sections 208.35, 208.202, 208.203, and 208.302 are removed and reserved.

3. Section 208.213(c) is amended to read:

§ 208.213 Charter costs.

* * * * *

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight.

4. Section 208.301 is revised to read:

§ 208.301 Terms of service.

The provisions of Subpart A of this part, except paragraph (f) of § 208.32, shall apply to charters under this subpart.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-3679 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 212

[Economic Regulations Amendment No. 37 to Part 212, Docket: 38022; Regulation ER-1211]

Charter Trips by Foreign Air Carriers; Amendment of Rules for Pro Rata and Single Entity Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata and single entity charters to remove the limitation on the commission that carriers can pay to travel agents and to permit payments and donations from carriers and travel agents to the chartering organization or its individual members.

DATES: Adopted: January 21, 1981. Effective: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: A full discussion of this action is in ER-1209, adopted today.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 212, *Charter Trips by Foreign Air Carriers,* as follows:

1. The authority for Part 212 is:

Authority: Secs. 101(3), 102, 204, 401, 402, 403, 404, 407, 411, 416, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 766, 769, 771, 788, 49 U.S.C. 1301, 1302, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482.

§§ 212.12, 212.23, 212.30, 212.52 [Reserved]

2. Sections 212.12, 212.23, 212.30 and 212.52 are removed and reserved.

3. Section 212.43(c) is revised to read:

§ 212.43 Charter costs.

* * * * *

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such cost may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-3680 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 214

[Economic Regulations Amendment No. 33 to Part 214, Docket: 38022; Regulation ER-1212]

Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only; Amendment of Rules for Pro Rata and Single Entity Charters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata and single entity charters to remove the limitation on the commission that carriers can pay to travel agents and to permit payments and donations from carriers and travel agents to chartering organizations or their individual members.

DATES: Adopted: January 21, 1981. Effective: January 21, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: A full discussion of this action is in ER-1209, adopted today.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 214, *Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only,* as follows:

1. The authority for Part 214 is:

Authority: Secs. 101(3), 102, 204, 401, 402, 403, 404, 407, 411, 416, 1002, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1301, 1302,

1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482.

§§ 214.15, 214.16, 214.20, 214.21, 214.42 [Removed]

2. Sections 214.15, 214.16, 214.20, 214.21, 214.42 are removed and revoked.

3. Section 214.33(c) is revised to read:

§ 207.33 Charter costs.

* * * * *

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such cost may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-3681 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1212

Safety Standard Requiring Oxygen Depletion Safety Shutoff Systems for Unvented Gas-Fired Space Heaters; Correction to Final Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: The Commission corrects the document publishing its findings regarding the standard for unvented gas-fired space heaters by numbering the undesignated paragraphs in one section. This action is taken for convenience in referencing that portion of the codified standard.

DATES: The correction is effective February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen Lemberg, Assistant General Counsel (202) 634-7770. Consumer Product Safety Commission. Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 17, 1980 (45 FR 61880), the Commission published a safety standard requiring oxygen depletion safety shutoff systems (ODS) for unvented gas-fired space heaters (16 CFR Part 1212). At § 1212.9(i) appeared the Commission's findings regarding the reasonable necessity of the rule to eliminate or reduce an unreasonable risk of injury and that the issuance of the rule is in the public interest (45 FR 61937, 61938). This paragraph contains ten (10) undesignated subparagraphs which make it difficult to refer to or provide a citation to.

§ 1212.9 [Corrected]

Accordingly, for purposes of convenience, § 1212.9(i) of Title 16 of the Code of Federal Regulations is corrected by numbering the 10 undesignated paragraphs (1) to (10), consecutively.

Dated: January 28, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-3714 Filed 2-2-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM 80-65]

Exemption From All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With an Installed Capacity of Five Megawatts or Less

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Denying Rehearing of Order No. RM80-65.

SUMMARY: The Federal Energy Regulatory Commission denies two applications for rehearing of the order establishing a case-specific procedure of exempting from all or part of Part I of the Federal Power Act any small hydroelectric power project with a proposed installed capacity of 5 megawatts or less. The applications raised no new issues that would serve as a basis on which to grant rehearing.

FOR FURTHER INFORMATION CONTACT:

Kristina Nygaard, Acting Assistant General Counsel for Hydroelectric Licensing, Office of the General Counsel, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8448

James Hoecker, Division of Regulatory Development, Office of the General Counsel, 825 N. Capitol Street, N.E., Washington, D.C. 20426, (202) 357-9342

SUPPLEMENTARY INFORMATION:

Before Commissioners: George R. Hall, Acting Chairman; Matthew Holden, Jr., and J. David Hughes.

In the matter of final rule governing exemption from all or part of Part I of the Federal Power Act of small hydroelectric power projects with an installed capacity of 5 megawatts or less; Order denying rehearing of Order No. 106.

Issued: January 27, 1981.

On November 7, 1980, the Commission issued Order No. 106 in Docket No. RM80-65. Order No. 106 establishes a case-specific procedure for exempting from all or part of Part I of the Federal Power Act (Act) any small hydroelectric power project with a proposed installed capacity of 5 megawatts or less. The rule implements in part section 408 of the Energy Security Act of 1980 (ESA) and creates Subpart K of Part 4 of the Commission's regulations, effective immediately.

Timely applications for rehearing of Order No. 106 have been filed with the Commission by the Connecticut Municipal Electric Energy Cooperative and the City of Santa Clara, California (Municipalities) and by the American Public Power Association (APPA). On January 7, 1981 the Commission found that additional time was required to consider the applications for rehearing and granted rehearing solely for purposes of further consideration. We now address the issues raised in those applications.

First, APPA and Municipalities argue that, contrary to Congressional intent and the provisions of section 408 of the Energy Security Act of 1980, Order No. 106 eliminates the system of state and municipal preference established in section 7(a) of the Act, insofar as the preference applies to projects at existing dams and natural water features.[1] The applicants contend that the rule thereby makes public entities subservient to individuals who own small hydropower sites. It is argued that the Commission is obliged to reconcile the exemption process and section 7(a) of the Act and to preserve the existing public preference system in all instances. The basis of this position is the Congressional directive, in section 405 of PURPA, that the Commission comply fully with specified environmental

[1] Section 4.103(b) of the rule permits only persons holding the real property interests necessary to develop and operate a proposed project (where any non-Federal lands are involved) to apply for exemption of the project. Under § 4.104, public entities that apply for preliminary permits or licenses that compete with exemption applications will be governed by the rules that apply to any permit or license applicant. The Commission will not afford municipalities the preference under section 7(a) of the Act to which they would otherwise be entitled if they were competing only with applicants for permits or licenses, rather than with an applicant for exemption from licensing.

statutes "and any other provision of Federal law." [2]

The Commission addressed the issues raised by APPA and Municipalities in Order No. 106. As we stated there, section 408 of the ESA clearly enables the Commission to exempt small hydroelectric power projects wholly or in part from application of the requirements of Part I of the Act. Section 7(a) is part of Part I. However, APPA and Municipalities maintain, in effect, that the statute requires exemption from any provision or Part I of the Act, except section 7(a). This is an interpolation. While the statute gives the Commission discretion to choose whether to apply section 7(a) to exemptible projects, the Commission cannot read into the statute a prohibition against exemption from section 7(a) which is clearly not there and not articulated by the Congress elsewhere.

The applicants' reliance on the language in both section 405(b) of PURPA and the report of the conferees on the ESA,[3] requiring compliance with "any other provision of Federal law," does not support the applicants' position that uniform application of the preference provision was mandated by Congress. If, as APPA contends, the conferees intended that section 408 of the ESA "was not to be regarded as superseding provisions of any Federal law," [4] the Commission's authority to provide exemption from licensing or other requirements of the Act would be a nullity.

APPA puts forth the related assertion that the statute must be read to provide that the Commission may exempt a project from licensing only where no competing license or preliminary permit application is filed. In other words, the licensing process and the attendant preference for municipal and state applicants would take precedence over the exemption process. The Commission considered this APPA interpretation before issuing the final rule and continues to believe that nothing in the ESA compels that position. Indeed, the policies of encouraging the development of hydropower and minimizing the delays that accompany competing applications militate against it.

In addition, the Commission does not agree with the assumptions that underlie the applicants' desire to apply the public preference to the exemption process. Order No. 106 does not abolish or repeal section 7(a); nor does it seriously disadvantage a public entity that wishes to develop a small hydroelectric power project. Although only project owners may apply for exemption of any project that requires non-public lands for development, a public entity will frequently be a project owner. If a state or municipality is not a project owner, it may still negotiate with the current project owner in order to obtain the necessary real property interests. Finally, a public entity may obtain by condemnation under state law what it fails to obtain by contract, in which case it must pay the owner the fair compensation for the project.

It is the judgment of the Commission that the exemption procedure in Order No. 106 will promote development of new hydropower potential that, in the face of a perceived regulatory burden, the delays accompanying evaluation of competing applications, or the statutory advantage afforded competing public entities under section 7(a), might remain untapped for the near future. In addition, the Commission has concluded that the effectiveness of any exemption for projects utilizing non-public lands depends on preferring, and thereby encouraging development by, the person who has invested in and owns the project and is presently able to develop it by virtue of existing property rights.

In a second area of disagreement with Order No. 106, Municipalities and APPA object to an exemption of unlimited term for small hydroelectric power projects. This, states Municipalities, "would put substantial hydroelectric resources beyond the realm of regulation in the public interest * * *." [5] In large part, Congress intended this result. Section 408 of the ESA does not require a qualified exemption from Part I of the Act. However, the Commission has taken several steps which it believes to be in the public interest. Order No. 106 prescribes terms and conditions for any exempted project, including the threat to revoke an exemption for violation of such conditions, and permits future investigation and enforcement action by the Commission. It also allows submittal of an application for license for a project which may be mutually exclusive with an exempted project, if such license applicant proposes a significantly better plan of development for the available water resources. Nevertheless, if the rule provided for a limited term exemption and a series of regularized monitoring practices, the exemption would, as we stated in Order No. 106, constitute another form of hydropower license. Such a result is unnecessary and undesirable.

Municipalities also maintain that the 120-day automatic exemption provision is incompatible with any situation where competing license and exemption applications are filed (section 4.104(e)(2)), because the Commission might be unable to make the requisite findings of fact in that time. The Commission finds this objection to be unfounded because § 4.105(b)(5)(iv) provides for suspension of that deadline for the very reason mentioned by Municipalities.

Both Municipalities and APPA claim, without argument, that requiring a proposed capacity of at least 7.5 megawatts in any license application for an exempted project discourages comprehensive development of hydropower resources. Although the Commission, as a rule, will not accept any license or permit application for an exempted project, § 4.104(c)(2)(i) permits a non-owner to propose more comprehensive use of water resources that would otherwise be removed from market competition under the exemption. The threshold chosen will, in the Commission's judgment, assure that the increased installed generating capacity proposed by such license applicant is sufficient to warrant the regulatory burden of evaluating the relative merits of competing applications and substituting a licensing proceeding for the exemption process.

For the reasons stated above, the Commission finds no basis on which to grant the requested rehearing.

The Commission orders:

The applications for rehearing submitted by the American Public Power Association and by the Connecticut Municipal Electric Energy Cooperative and the City of Santa Clara, California in Docket No. RM80–65 are hereby denied.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81–3722 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–85–M

[2] This and related arguments are made in an application for rehearing filed by the Municipal Electric Utilities of Wisconsin and the City of Shawano, Wisconsin which was not filed on a timely basis and was therefore dismissed. Were the Commission to consider that application, it would find its arguments for rehearing similarly unpersuasive for the same reasons stated in this order.

[3] H. Repl., No. 96–1104, 96th Congress, 2d session, June 19, 1980.

[4] Petition of American Public Power Association for Rehearing, (December 8, 1980), at 4.

[5] Application for Rehearing by the Connecticut Municipal Electric Energy Cooperative and the City of Santa Clara, California (December 8, 1980) at 7.

18 CFR Part 271

[Docket No. RM79-76 (Louisiana-1); Order No. 129]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued January 27, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR § 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Louisiana Office of Conservation that the Arkadelphia Formation designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: January 27, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Ting Chin, (202) 357-8595/John Basset, (202) 357-8589.

The Commission hereby amends § 271.703(d) of its regulations to include the Arkadelphia Formation as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPPR, issued October 28, 1980 (45 FR 72687, November 3, 1980)[1] based on a recommendation by the Louisiana Office of Conservation (Louisiana) with § 271.703(c), that the Arkadelphia Formation be designated as a tight formation.

Evidence submitted by Louisiana and one commenter supports Louisiana's assertion that the Arkadelphia Formation meet the guidelines contained in § 271.703(c)(2). The Commission concurs with the Louisiana recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below, effective January 27, 1981.

Lois D. Cashell,

Acting Secretary.

Section 271.703(d) is amended by adding new subparagraph (15) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

(1) *The Cotton Valley Group in Texas.* * * *

(2) *The Mancos "B" Formation in Colorado.* * * *

(3) *The Frontier Formation in Wyoming.* * * *

(4) *The Mesaverde Formation in Wyoming.* * * *

(5) *The Austin-Mississippian Formation in New Mexico.* * * *

(6) *The Mancos "B" Formation in Colorado.* * * *

(7) *The Fort Union Formation in Colorado.* * * *

(8) *The Mesaverde Formation in Colorado.* * * *

(9) *The Mancos Formation to the base of the Mancos "B" Zone in Colorado.* * * *

(10) *The Canyon Sandstone Formation in Texas.* * * *

(11) *The Wattenberg J Sand Formation in Colorado.* * * *

(12) *The Cisco Sandstone Formation in Texas.* * * *

(13) *The Vicksburg UV Formation in Texas.* * * *

(14) *The Vicksburg Y Formation in Texas.* * * *

(15) *The Arkadelphia Formation in Louisiana.* RM79-76 (Louisiana-1)

(i) *Delineation of formation.* The Arkadelphia Formation is found in Union Parish, Louisiana.

(ii) *Depth.* The Arkadelphia Formation is defined as that formation occuring between the measured depths of 2,028 feet and 2,080 feet.

[FR Doc. 81-3720. Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[1] Comments were requested and received. No party requested a public hearing in this proceeding and no hearing was held.

18 CFR Part 271

[Docket No. RM79-76 (Wyoming-3; Order No. 128]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued January 27, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR § 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Wyoming Oil and Gas Conservation Commission that the Fort Union Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: January 27, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Victor Zabel, (202) 357-8559.

The Commission hereby amends § 271.703(d) of its regulations to include the Fort Union Formation in the Pinedale Field Sublette County, Wyoming as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPPR, issued November 28, 1980 (45 FR 76700, October 20, 1980)[1] based on a recommendation by the Wyoming Oil and Gas Conservation Commission (Wyoming) in accordance with § 271.703(c), that the Fort Union Formation be designated as a tight formation.

[1] Comments were requested and received. No party requested a public hearing in this proceeding and no hearing was held.

Evidence submitted by Wyoming and one commenter supports Wyoming's assertion that this formation meet the guidelines contained in § 271.703(c)(2). The Commission adopts the Wyoming recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below, effective January 27, 1981.

Lois D. Cashell,

Acting Secretary.

Section 271.703(d) is amended by adding new subparagraph (16) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

(1) *The Catton Valley Group in Texas.* * * *

(2) *The Mancos "B" Formation in Colorado.* * * *

(3) *The Frontier Formation in Wyoming.* * * *

(4) *The Mesaverde Formation in Wyoming.* * * *

(5) *The Austin-Mississippian Formation in New Mexico.* * * *

(6) *The Mancos "B" Formation in Colorado.* * * *

(7) *The Fort Unian Formation in Colorado.* * * *

(8) *The Mesaverde Formation in Colorado.* * * *

(9) *The Mancos Formation to the base of the Mancos "B" Zone in Colorado.* * * *

(10) *The Canyon Sandstone Formation in Texas.* * * *

(11) *The Wattenberg J Sand Formation in Colorado.* * * *

(12) *The Cisco Sandstone Formation in Texas.* * * *

(13) *The Vicksburg UV Formation in Texas.* * * *

(14) *The Vicksburg Y Formation in Texas.* * * *

(15) *The Arkadelphia Formation in Louisiana.* * * *

(16) *The Fort Union Formation in Wyoming.* RM79–76 (Wyoming–3)

(i) *Delineation of formation.* The Fort Union Formation is found in Pinedale Field in Sublette County, Wyoming.

(ii) *Depth.* The Fort Union Formation is defined as that formation occurring between the Wasatch Formation above and the Lance Formation below, at an average measured depth interval of 7,258 feet to 10,516 feet.

[FR Doc. 81–3721 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 75F–0083]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for the safe use of dimethyltin/monomethyltin isooctylmercaptoacetates as a stabilizer for use in the manufacture of rigid polyvinyl chloride water pipe. This action is in response to a petition filed by Carstab Corp. (formerly Cincinnati Milacron Chemicals, Inc.).

DATES: Effective February 3, 1981; objections by March 5, 1981.

ADDRESS: Written objections to the Hearing Clerk (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, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of June 16, 1975 (40 FR 25501) announced that a food additive petition (FAP 4B2964) had been filed by Carstab Corp., West St., Cincinnati OH 45215 (formerly Cincinnati Milacron Chemicals, Inc., West St., Reading, OH 45215), proposing that the food additive regulations be amended to provide for the safe use of dimethyltin/monomethyltin isooctylmercaptoacetates as a stabilizer for use in the manufacture of rigid polyvinyl chloride polymeric articles intended for use in contact with dry food. Subsequently, the petitioner amended the petition by deleting the coverage requested above and proposing that the food additive regulations be amended to provide for the safe use of the additive as a stabilizer for use in the manufacture of rigid polyvinyl chloride water pipe only. The notice of this amendment was published in the Federal Register of June 17, 1976 (41 FR 24621).

Subsequent to the publication of the amended filing notice, the Food and Drug Administration (FDA) executed a memorandum of understanding (MOU) with the Environmental Protection Agency (EPA), with regard to the control of direct and indirect additives to and substances in drinking water (44 FR 42775, July 20, 1979). The MOU assigned responsibility for drinking water additives to EPA, except in two areas traditionally regulated by FDA: additives added to water, either directly or indirectly, in a food manufacturing plant, and additives in bottled water. The present final regulation is being promulgated in response to FDA's responsibility for additives in water used in food manufacturing and/or processing plants.

FDA has evaluated data in the petition and other relevant material, and concludes that § 178.2010 should be amended to include the petitioned food additive as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010 by alphabetically inserting in the list of substances in paragraph (b) a new item to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
. . . . .	. .
Dimethyltin/monomethyltin isooctylmercaptoacetates consisting of 71 to 81 percent by weight of dimethyltin bis(isooctylmercaptoacetate), 19 to 29 percent by weight of tris(isooctylmercaptoacetate) and no more than 0.4 percent by weight of trimethyltin compounds, and having the following specifications: Tin content (as Sn) in the range of 18.7–19.7 percent and mercaptosulfur content in the range of 11.5–12.5 percent. The isooctyl radical in the mercaptoacetate is derived from oxo process isooctyl alcohol. Other alkyltin compounds are not to exceed 20 ppm.	For use only at levels not to exceed 2.0 percent by weight in rigid polyvinyl chloride used in the manufacture of pipes intended for contact with water in food processing plants.
. . . . .	. .

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 5, 1981, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, 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 intented 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. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 3, 1981.

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

Dated: January 23, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81–3663 Filed 2–2–81; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 510

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect a change of sponsor for several new animal drug applications (NADA's) from Hess & Clark Division of Rhone-Poulenc, Inc., to Hess & Clark, Inc., and to reflect that Rhone-Poulenc, Inc., continues as sponsor of certain other NADA's. Supplemental NADA's filed by the firm provide for this change.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: David P. Ducharme, Bureau of Veterinary Medicine (HFV–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2280.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852, filed several supplemental NADA's providing for a change of sponsor from Hess & Clark, Division of Rhone-Poulenc, Inc., to Hess & Clark, Inc. Rhone-Poulenc will continue to sponsor several other NADA's. The list of sponsor names and addresses in 21 CFR 510.600(c) is amended to reflect the change of sponsors.

This action, the change of sponsor for several NADA's, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64357; December 23, 1977), approval of this action did not require a reevaluation of the safety and effectiveness data in the parent applications.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (44 FR 71742; December 11, 1979) 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.

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 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 is amended in paragraph (c)(1) by deleting the sponsor name in the entry for "Hess & Clark, Division of Rhone-Poulenc, Inc.," and inserting in its place the name "Hess & Clark, Inc.," and by adding a new entry for "Rhone-Poulenc, Inc.."; in paragraph (c)(2) in the entry for "011801" by deleting the firm name and inserting in its place "Hess & Clark, Inc.," and by adding a new entry for "011526," to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

. . . . .

(c) . . .

(1) . . .

Firm name and address	Drug labeler code
. . . . .	
Hess & Clark, Inc., Seventh and Orange Sts., Ashland, OH 44805	011801
. . . . .	
Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852	011526
. . . . .	

(2) . . .

Drug labeler code	Firm name and address
. . . . .	
011526	Rhone-Poulenc, Inc., P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852.
. . . . .	
011801	Hess & Clark, Inc., Seventh and Orange Sts., Ashland, OH 44805.
. . . . .	

Effective date. February 3, 1981.

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

Dated: January 27, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81–3951 Filed 2–2–81; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 510

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect the change of sponsor name for a new animal drug application (NADA) from FS Services, Inc. to Growmark, Inc., and to revise the list of sponsors of approved NADA's to reflect this change.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary

Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: FS Services, Inc., 1701 Towanda Ave., Bloomington, IL 61701, has changed the firm name to Growmark, Inc. On the firm's behalf, Elanco Products Co. advised the agency of the change of sponsor name. The Bureau of Veterinary Medicine is amending the regulations in 21 CFR 510.600(c) to reflect the change.

This action, the change of sponsor of an NADA, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this action does not require reevaluation of the safety and effectiveness data in the parent application.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (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.

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 5.1) and redelegated to the Bureau of Veterianary Medicine (21 CFR 5.83), § 510.600 is amended in paragraph (c)(1) by deleting the entry for "FS Services, Inc.," and by adding a new sponsor entry alphabetically for "Growmark, Inc.," and in paragraph (c)(2) in the entry for "020275" by deleting the sponsor name "FS Services, Inc.," and inserting in its place the name "Growmark, Inc.," to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701	020275

(2) * * *

Drug labeler code	Firm name and address
020275	Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701.

Effective date. February 3, 1981.

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

Dated: January 28, 1981.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 81-3952 Filed 2-2-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 510, 520, and 522

Animal Drugs, Feeds, and Related Products; Wellcome Animal Health Division; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect the change of sponsor names for several new animal drug applications (NADA's) from Wellcome Veterinary Division and Jensen-Salsbery Laboratories (two Burroughs Wellcome divisions) to Wellcome Animal Health Division. Supplemental NADA's filed by Burroughs Wellcome Co. provide for the changes.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Burroughs Wellcome Co. informed the agency that the firm has combined its two veterinary divisions, Wellcome Veterinary Division and Jensen-Salsbery Laboratories, into a single unit to be known as the Wellcome Animal Health Division. The firm submitted supplemental applications for those NADA's affected. The regulations are amended to reflect the change of sponsor name.

This intracorporate transfer of NADA's does not involve changes in facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category I change; therefore, this action does not require a reevaluation of the safety and effectiveness data in the parent applications.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (44 FR 71742; December 11, 1979) 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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 520, and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by removing the entries for "Burroughs Wellcome Co." and "Jensen-Salsbery Laboratories" and alphabetically adding a new sponsor and in paragraph (c)(2) by removing the entry for "017220" and revising the entry for "000081" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
Wellcome Animal Health Division, Burroughs Wellcome Co., Kansas City, MO 64108	000081

(2) * * *

Drug labeler code	Firm name and address
000081	Wellcome Animal Health Division, Burroughs Wellcome Co., Kansas City, MO 64108

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 520 is amended:

§ 520.82a [Amended]

a. In § 520.82a *Aminopropozine fumarate tablets,* in paragraph (b) by removing "017220" and inserting in its place "000081".

§ 520.82b [Amended]

b. In § 520.82b *Aminopropazine fumarate, neomycin sulfate toblets,* in

paragraph (b) by removing "017220" and inserting in its place "000081".

§ 520.784 [Amended]

c. In § 520.784 *Doxylamine succinate tablets*, in paragraph (b) by removing "017220" and inserting in its place "000081".

§ 520.863 [Amended]

d. In § 520.863 *Ethylisobutrozine hydrochloride toblets*, in paragraph (b) by removing "017220" and inserting in its place "000081".

§ 520.1720a [Amended]

e. In § 520.1720a *Phenylbutazone tablets and boluses*, in paragraph (b)(1) by removing "017220" and inserting in its place "000081".

§ 520.1720b [Amended]

f. In § 520.1720b *Phenylbutozone gronules*, in paragraph (b) by removing "017220" and inserting in its place "000081".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. Part 522 is amended:

§ 522.82 [Amended]

a. In § 522.82 *Aminopropazine fumorate sterile solution injection*, in paragraph (b) by removing "017220" and inserting in its place "000081".

§ 522.784 [Amended]

b. In § 522.784 *Doxylamine succinate injection*, in paragraph (b) by removing "017220" and inserting in its place "000081".

§ 522.863 [Amended]

c. In § 522.863 *Ethylisobutrazine hydrochloride injection*, in paragraph (b) by removing "017220" and inserting in its place "000081".

§ 522.1720 [Amended]

d. In § 522.1720 *Phenylbutazone injection*, in paragraph (b)(1) by removing "017220" and inserting in its place "000081".

Effective dote. February 3, 1981.

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

Dated: January 27, 1981.

Robert A. Baldwin,

Associote Director for Scientific Evoluotion.

[FR Doc. 81-3950 Filed 2-2-81: 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510 and 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

Correction

In FR Doc. 80-36872, appearing at page 79027 in the issue of Friday, November 28, 1980, the following changes should be made:

(1) On page 79027, the effective date, "November 29, 1980" should be changed to read "November 28, 1980"

(2) On page 79028, second column, under "§ 558.625 Tylosin", paragraph (b)(73), "03598" should be changed to read "035098"

BILLING CODE 1505-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Praziquantel Injectable Solution

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 Bayvet Division, Cutter Laboratories, Inc., providing for safe and effective subcutaneous or intramuscular use of a canine anthelmintic.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Bayvet Division, Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed an NADA (111-607) providing for safe and effective use of praziquantel injectable solution for treating dogs for *Dipylidium caninum, Toenia pisiformis*, and *Echinococcus granulosus* infections. Based on the data and information submitted, the NADA is approved and the regulations amended to reflect the 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 (formerly the Hearing Clerk's office) (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 Director, Bureau of Veterinary Medicine, has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Director's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*o*) and (*e*)(*1*) and (*2*)) may be seen in the Dockets Management Branch, address above.

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 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by adding new § 522.1870, to read as follows:

§ 522.1870 Praziquantel injectable solution.

(a) *Specification.* Each milliliter contains 56.8 milligrams of praziquantel.

(b) *Sponsor.* See 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* For dogs 5 pounds and under, 0.3 milliliter (17.0 milligrams); for 6 to 10 pounds, 0.5 milliliter (28.4 milligrams); for 11 to 25 pounds, 1.0 milliliter (56.8 milligrams); if over 25 Pounds, 0.2 milliliter (11.4 milligrams) per 5 pounds body weight to a maximum of 3 milliliters (170.4 milligrams).

(2) *Indications for use.* For removal of canine cestodes *Dipylidium coninum, Toenio pisiformis*, and *Echinococcus granulosus.*

(3) *Limitotions.* For subcutaneous or intramuscular use; not intended for use in puppies less than 4 weeks of age; Federal law restricts the drug to use by or on the order of a licensed veterinarian.

Effective dote. This amendment is effective February 3, 1981.

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

Dated: January 23, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinory Medicine.

[FR Doc. 81-3953 Filed 2-2-81: 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Ag-Mark, Inc., providing for safe and effective use of a premix containing 10 grams-per-pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Ag-Mark, Inc., P.O. Box 127, East Ave., Teachey, NC 28464, is the sponsor of NADA 124–391 submitted on its behalf by Elanco Products Co. The NADA provides for use of a premix containing 10 grams-per-pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to increase rate of weight gain and to improve feed efficiency.

Approval of this application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 41–275. Use of this data in NADA 41–275 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data in NADA 41–275.

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 (formerly the Hearing Clerk's office) (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) (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.

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 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by revising paragraph (b)(3) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(3) To 011490, 016968, 017255, 017274, 024174, 026186, 034500, 035955, 043743, 046987; 10 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. This regulation is effective February 3, 1981.

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

Dated: January 23, 1981.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81–3954 Filed 2–2–81; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 1030

Radiological Health; Performance Standards for Microwave and Radio Frequency Emitting Products; Amendments to the Microwave Oven Standard; Measurement and Test Conditions

Correction

In FR Doc. 80–36873, appearing at page 79028 in the issue of Friday, November 28, 1980, make the following changes:

(1) On page 79031, first column, under paragraph (c)(1) of "**§ 1030.10 Microwave ovens.**", fourth line, "over" should be changed to read "oven".

(2) On page 79031, second column, the effective date, "November 28, 1981" should be changed to read "November 30, 1981".

BILLING CODE 1505–01–M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 1

Procedures for Predetermination of Wage Rates

Correction

In FR Doc. 81–1343 appearing at page 4306 in the issue for Friday, January 16, 1981, on page 4314, in § 1.7(b), in the fourth line, after the word "determination" insert a comma.

BILLING CODE 1505–01–M

Office of the Secretary

Mine Safety and Health Administration

Pension and Welfare Benefits Program Office

29 CFR Parts 2, 2520 and 2550

30 CFR Parts 71 and 90

Final Rules; Deferral of Effective Dates

AGENCY: Department of Labor.

ACTION: Final rule; deferral of effective dates.

SUMMARY: This rule defers the effective dates of certain Labor Department regulations until March 30, 1981. This action is taken in response to a January 29, 1981 Memorandum from the President of the United States of America, Ronald Reagan, to the Secretary of Labor and other cabinet officials.

EFFECTIVE DATE: January 29, 1981.

ADDRESSES: Send comments to Gail Lively, Director, Executive Secretariat, Room S2515, Francis Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, *Attention: Deferral of Effective Dates.*

FOR FURTHER INFORMATION CONTACT: Donald Smyth, Office of Information, Publications and Reports, Telephone: (202) 523–7316.

SUPPLEMENTARY INFORMATION: By memorandum dated January 29, 1981, attached as an Appendix to this rule and filed with this document, President Ronald Reagan requested that the executive agencies postpone for sixty (60) days the effective date of those final regulations which are currently pending and have not yet become final. This document will formally postpone the effective dates of the below listed rules until March 30, 1981. I take this action because of the reasons stated in the President's Memorandum.

Rule	Agency	Date and page of publication in the Federal Register	Original effective date
30 CFR Part 71 Mandatory Health Standards—Surface Work Areas of Underground Coal Mines and Surface Coal.	MSHA	Dec. 5, 1980 45 FR 80746	Feb. 1, 1981.
30 CFR Part 90 Procedures for Transfer of Miners with Evidence of Pneumoconiosis.	MSHA	Dec. 5, 1980 45 FR 80760	Feb. 1, 1981.
29 CFR 2.7 General Regulations	SECY	Jan. 2, 1981 46 FR 34	Feb. 2, 1981.
29 CFR 2520. 104–49 Rules and Regulations for Reporting and Disclosure.	PWBP	Jan. 6, 1981 46 FR 1261	Feb. 6, 1981.
29 CFR 2550. 404b–1 Rules and Regulations for Fudiciary Responsibility.	PWBP	January 6, 1981 46 FR 1266	February 6, 1981.

MSHA—Mine Safety and Health Administration.
SECY—Office of the Secretary.
PWBP—Pension and Welfare Benefits Program office.

Authority: Please refer to the above-mentioned documents in order to ascertain the specific statutory authority for each of the rules.

Signed at Washington, D.C. this 30th day of January, 1981.

Alfred M. Zuck,
Acting Secretary of Labor.

[FR Doc. 81–4133 Filed 1–30–81; 4:30 pm]

BILLING CODE 4510–23–M

Employment Standards Administration, Wage and Hour Division

29 CFR Part 5

Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

Correction

In FR Doc. 81–1363 appearing at page 4380 in the issue for Friday, January 16, 1981, make the following corrections:

(1) On page 4387, in the middle column, in the second paragraph (§ 5.2(n)(3)), in the fourth line "ar" should read "are".

(2) On page 4387, in the third column, in § 5.5(a), in the ninth line, delete the ":" (colon) and begin the tenth line "*provided* that".

(3) On page 4387, in the third column, in the fifth line from the bottom of the column (§ 5.5(a)(1)), delete the ":" (colon) and begin the next line "*provided* that".

(4) On page 4388, in the middle column, in the third paragraph (§ 5.5(a)(1)(iv)), the eighth line should read "program, *provided* that the Secretary of".

(5) On page 4394, in the second column, in the third paragraph (§ 5.12(d)(2)(iii)), in the seventh line "an" should read "and".

BILLING CODE 1505–01–M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

[Docket No. 80–2]

Adjustment of Royalty Payable Under Compulsory License for Making and Distributing Phonorecords; Rates and Adjustment of Rates

AGENCY: Copyright Royalty Tribunal (CRT)

ACTION: Final Rule Findings.

SUMMARY: Copyright Royalty Tribunal has adopted rule adjusting the rates of royalty payable under compulsory license of 17 U.S.C. 115 for making and distributing phonorecords embodying nondramatic musical works. The rule also provides for possible subsequent adjustment of the royalty rates. This document contains the detailed findings to accompany the rule as required by 17 U.S.C. 803(b).

EFFECTIVE DATE: January 31, 1981.

FOR FURTHER INFORMATION CONTACT:

Clarence L. James, Jr., Chairman
Copyright Royalty Tribunal, (202) 653–5175.

SUPPLEMENTARY INFORMATION: The Copyright Royalty Tribunal published in the **Federal Register** of January 5, 1981 (46 FR 891) its final rule concerning the adjustment of the royalty payable under compulsory license for making and distributing phonorecords. It was stated in that publication that the detailed findings to accompany the rule, as required by 17 U.S.C. 803(b), would be published within thirty days.

Introduction and Chronology

17 U.S.C. 804(a)(1) directs the Copyright Royalty Tribunal (Tribunal) to publish on January 1, 1980 in the **Federal Register** notice of commencement of proceedings concerning possible adjustment of the royalty rates established in 17 U.S.C. 115 concerning the compulsory license for the use of nondramatic musical works in the making of phonorecords. The required notice appeared in the **Federal Register** of January 2, 1980 (45 FR 63).

Parties to the proceeding included both copyright owners and copyright users. Copyright owners were represented by (either by witnesses or written submissions) the National Music Publishers Association, Inc. (NMPA), Church Music Publishers Association, the Association of Independent Music Publishers, the American Guild of Authors and Composers (AGAC), the Nashville Songwriters Association International and Songwriters Resources and Services. Copyright users were represented by the Recording Industry Association of America (RIAA). CBS Inc. made various written submissions in addition to oral testimony by its officers and employees. The Amusement and Operators Association (AMOA), a trade association representing operators of jukeboxes and other machines, and the American Society of Music Arrangers (ASMA) also made written submissions.

In its notice of January 2, 1980 the Tribunal directed parties to submit motions concerning jurisdictional or legal questions by March 3, 1980, and reply comments by March 20. The Tribunal also directed that economic or other studies be submitted by April 1, 1980, with reply comments by April 21, 1980. Studies were submitted by NMPA, AGAC and RIAA.

After receiving various filings by the parties, a pre-hearing conference was held on March 10, 1980. On March 25 the Tribunal heard oral argument on the motion of RIAA that the Tribunal lacked jurisdiction to adjust the royalty rate to

provide for the fixing of the royalty rate as a percentage of the price of the phonorecord. On March 27 the Tribunal denied the motion of RIAA.

On April 21, 1980 RIAA moved that the Tribunal request NMPA to provide "evidence concerning the financial condition of the publishing industry". On April 23, 1980 NMPA moved that the Tribunal request RIAA and Cambridge Research Institute to submit the underlying input data for its economic study. The Tribunal on April 24, after considering the views of parties, issued an order stating that the Tribunal "at the present time takes no action on the subject matter of the motion of the Recording Industry Association of America" and requesting RIAA and the Cambridge Research Institute to submit the requested input data, including the individual responses to questionnaires. On April 29, RIAA moved the Tribunal to reconsider its request for the production of input data. This motion was denied on April 30.

On May 2, 1980 the Tribunal requested legal memoranda on the relevance of profitability to an adjustment of the mechanical royalty. Memoranda were submitted by NMPA, AGAC and RIAA.

The evidentiary hearing commenced on May 7, 1980 and included 46 days of hearings, 35 witnesses, over 6,000 pages of transcript and hundreds of additional pages of documents, financial tables and economic charts.

On July 15, 1980 AGAC moved to strike the Cambridge study, reply Comments and all testimony dependent upon the input data. The Tribunal denied AGAC's motion on October 14, 1980.

On August 6, 1980 the Tribunal issued an order declaring "that representative aggregate data concerning the financial condition of the music publishers may be relevant to the determination * * * of the mechanical royalty rate" and requesting NMPA and music publishers to assemble and present data in certain specified areas. On October 1, NMPA submitted Aggregate Data Concerning the Financial Condition of Music Publishers to the Tribunal.

The Tribunal heard closing argument in this proceeding on November 19, 1980. The Tribunal considered its final determination in this proceeding at public meetings on December 18 and 19. The Tribunal's final regulation was adopted on December 19, docketed by the Federal Register on December 31, and published in the Federal Register of January 5, 1981 (46 FR 891).

Summary of Evidentiary Positions of Parties

Music Publishers and Songwriters:

The Music Publishers and Songwriters presented cases that were complementary, the difference being that while the music publishers argued for the rate to be set at six percent of the suggested retail list price, the songwriters argued that it be set at eight percent. In support of their position the music publishers presented a study by Nathan Associates and the songwriters one by Rinfret Associates. Both parties relied upon the study of the other as well as their own during the course of the proceedings.

Music Publishers

The music publishers argued that the mechanical royalty should be raised to six percent of the suggested list price, or, as an alternative, that the flat rate be raised to 5 cents and adjusted annually for inflation by the Consumer Price Index.[1]

A principal claim by the music publishers in arguing for such as increase, was that over the last decade the mechanical royalty has eroded while record company profits have increased.[2] In real purchasing terms the two cent statutory rate of 1909 had the equivalent in 1978 of 14.5 cents.[3] From January 1978 to February 1980, the period during which the current mechanical rate has been in effect, the Consumer Price Index increased more than 20% and record prices increased 10%, but the purchasing power of the 2¾ cent rate declined 18%.[4] According to the music publishers, the historical effective mechanical royalty rate was six percent of the suggested list price and 8.5 percent of the actual price paid by consumers.[5] The benchmark the music publishers chose from which to begin historical comparison was 1948; this was when the L.P. was first introduced, and marked the beginning of the modern recorded music industry.[6] Starting in this period the price of an album stabilized at $3.98 and contained twelve songs; with a two cent mechanical rate the total royalty per record was 24¢ and therefore equalled six percent of the suggested list price.[7] If the excise tax which was imposed at the time is taken into consideration, the music publishers claimed, the royalty as a percentage of suggested list price was even higher.[8] This rate, according to the music publishers, remained in effect from 1948 to 1966, the period during which monaural L.P.'s were dominant[9] and during which the industry as a whole was stable.[10] It is since this period that the rate has eroded.[11] From 1965 until the final revision of the Copyright Act, the mechanical royalty rate fell to little more than half its value, against a rise in the Consumer Price Index of 76%.[12] In order to maintain the value of the two cent 1965 royalty, the rate would have to be raised to 5.34 cents.[13] In the argument of the music publishers, the very least that should be done would be an adjustment of the rate to compensate for inflation since 1974, which was the last year Congress had financial data for when it established the current rate at 2¾ cents.[14] Such a rate would be 4 cents, but because it would fail to take into account the erosion before 1974 the music publishers considered that it would still be unfair.[15] In addition to an erosion of the rate with respect to inflation, it has also eroded with respect to record prices and to all other costs record companies bear, the music publisher claimed.[16] The rate has effectively further decreased because of the reduction in the number of songs per album, from twelve in 1965 to ten in 1979.[17] And in comparison with the erosion of the value of the mechanical royalty, the royalties of recording artists appearing on the same records have substantially increased.[18] The result, according to the music publishers, has been that the compulsory license has enabled record companies to buy music at a rate that is unfairly cheap.[19]

As for the contention that the increase in record sales has compensated for the reduction in the effective royalty rate, the music publishers claimed that this is not true.[20] Increase in volume has only resulted in a slight increase in the number of songs available to the

[1] Proposed Findings of Fact and Conclusions of NMPA, Nov. 17, 1980, p. 186–187.

[2] Ibid, p. 25 and Nathan Study, pp. 27–28.

[3] Ibid, p. 32 and Rinfret Study, Vol. 1, p. 27.

[4] Ibid, p. 33 and Ibid, p. 35.

[5] Proposed Findings of Fact and Conclusions of NMPA, Nov. 17, 1980, p. 119.

[6] Ibid, p. 119.

[7] Ibid, p. 119 and Post-Hearing Brief of NMPA, p. 2.

[8] Ibid, p. 120.

[9] Ibid, p. 120 and Post-Hearing Brief of NMPA, p. 9.

[10] Post-Hearing Brief of NMPA, p. 12.

[11] Proposed Findings of Fact and Conclusions of NMPA, p. 122.

[12] Ibid, p. 124 and Post Hearing Brief, pp. 22 and 23.

[13] Post-Hearing Brief of NMPA, p. 67.

[14] Ibid, p. 68.

[15] Proposed Findings of Fact and Conclusions of NMPA, p. 125.

[16] Facts and Conclusions of NMPA, p. 167 and Post Hearing Brief, p. 14.

[17] Facts and Conclusions of NMPA, p. 23.

[18] Ibid, p. 127.

[19] Ibid, p. 63.

[20] Ibid, p. 24 and 131 and Post Hearing Brief, p. 3 and 31.

public;[21] and compensation to the cómposer is not to be considered in the aggregate, but on a per-unit basis.[22] The music publishers also claimed that the increase in volume has been much smaller than the increase in record prices,[23] and smaller than the increase in inflation as measured by the CPI.[24] Record prices, not volume, in the music publisher' judgment, have been responsible for the profitability of the record industry.[25] It is on those albums that do achieve high volume that, in comparison with mechanical royalties, the record companies make their highest profits.[26] In Australia the Copyright Tribunal there determined that volume in sales did not compensate for inflation,[27] and the music publishers argued that the contention by the Francis Report in England that a lower royalty rate can to some degree be compensated for by volume does not apply to the United States because the rate in England is expressed as a percentage of retail price and can fluctuate on an individual basis with record prices.[28]

The music publishers considered that mechanical royalties abroad are an important point of comparison [29] and stressed that they are much higher than they are in the United States.[30] They are also expressed not as a flat rate, but as a percentage of price,[31] and in many countries are eight percent of retail list.[32] The position of the copyright owners is therefore much weaker here than it is abroad.[33] The music publishers disputed that higher rates in Europe are due to lower sales volume and pointed out that on a per capita basis volume in Europe is higher.[34] Furthermore, American records receiving the lower royalty in the United States receive the higher royalty in Europe,[35] and the reverse is true, European composers receiving less in the United States than they do for the same music in Europe.[36] The music publishers considered that it was inconsistent of the record companies to reject comparisons with practices abroad, because they rely upon foreign practices themselves when arguing for performance royalties.[37]

The music publishers claimed that under the current 2¾ cent statutory rate the copyright owners are not able to negotiate in a fashion that reflects market values.[38] For negotiations to occur that will insure the proper function of the free market the statutory rate must be sufficiently high;[39] although it must also enable record companies to invoke the compulsory license if negotiations should fail.[40] Therefore, the music publishers argued that the rate should be set at the high end of the negotiating range.[41] The fact that little negotiation now take place confirms that even with the rate set under the 1976 Statute the ceiling is too low.[42] The record companies have no economic incentive to negotiate.[43] Moreover, record companies rarely invoke the compulsory license.[44] When the mechanical rate was equal to six percent in the past, bargaining did occur, and licenses were granted at a level below that set by statute.[45]

The music publishers emphasized that the songwriter and his creative talents are basic to the record industry.[46] For the industry to have its few successful hits a large pool of songwriting talent must be available.[47] Nevertheless the difficulties, particularly financial, of being a songwriter are great [48] especially in areas of special music like jazz.[49] Relying on the Rinfret study to demonstrate the hardship and risk associated with being a songwriter,[50] the music publishers argued that the object of any rate increase should be the modest songwriter, not those who will be wealthy under any circumstances.[51] Other than performance royalties, mechanical royalties provide the major share of songwriters' income.[52] Moreover, at issue is not what songwriters receive as a group, but what they receive individually.[53] And this must be viewed in light of the fact that other traditional sources of income such as print sales have diminished.[54]

The music publishers argued that the Tribunal should not take into account the phenomenon of the singer-songwriter.[55] The issue of just how widespread the phenomenon is, is in doubt,[56] but above all they are not subject to the compulsory license.[57] Their releases are principally recorded by themselves,[58] and the royalties are negotiated as a total package.[59] They can therefore compensate for lower mechanical royalties by receiving higher artist royalties.[60] Conversely, if the mechanical rate is increased, both the artist and the record company can negotiate lower artist royalties.[61] With singer-songwriters who own their own publishing companies, the issue is where they wish to retain their profits.[62] In the case of those who reported in the Praeger and Fenton survey, most chose to leave them with their publishing companies.[63] Furthermore, because artist royalties are used to recoup the costs of recording, the effect of lower mechanical royalties and higher artist royalties has been to shift the financial risk of production on to the singer-songwriter.[64] The music publishers felt that it was proof that singer-songwriters are not affected by the mechanical rate and should not be taken into consideration in that none appeared at the proceeding.[65] Finally it was suggested that as a phenomenon singer-songwriter may ultimately have a deleterious effect upon the development of music.[66]

The music publishers considered that it was not the role of the Tribunal to evaluate the relationship between the songwriter and music publisher.[67] The relationship is a commercial one and freely negotiated on a free-market basis.[68] Nevertheless, music publishers argued that they play a significant role in the creation and dissemination of music [69] and that close collaboration exists between the publisher and

[21] Ibid. p. 24.
[22] Ibid. p. 25.
[23] Ibid. p. 25 and 134 and Post Hearing Brief, p. 31.
[24] Ibid. p. 134.
[25] Post Hearing Brief, p. 27.
[26] Ibid. p. 29.
[27] Facts and Conclusions of NMPA, p. 132.
[28] Facts and Conclusions of NMPA, p. 132.
[29] Ibid. p. 129.
[30] Ibid. p. 26.
[31] Ibid. p. 26.
[32] Post-Hearing Brief, p. 4 and 5.
[33] Facts and Conclusions of NMPA, p. 128.
[34] Post-Hearing Brief, p. 40.
[35] Ibid. p. 43.
[36] Ibid. p. 39.
[37] Ibid. p. 37–38.
[38] Facts and Conclusions of NMPA, p. 103.
[39] Facts and Conclusions of NMPA, p. 103.
[40] Ibid, p. 103.
[41] Ibid, p. 103.
[42] Ibid, p. 21.
[43] Ibid, p. 104.
[44] Ibid, p. 104.
[45] Ibid. pp. 169–170.
[46] Ibid, p. 52.
[47] Ibid. p. 114.
[48] Ibid. p. 56.
[49] Ibid. p. 58.
[50] Ibid. pp. 29–30.
[51] Ibid. p. 59.
[52] Ibid, p. 31.
[53] Post-Hearing Brief, p. 27.
[54] Facts and Conclusions of NMPA, p. 114.
[55] Post-Hearing Brief, pp. 33 and 37.
[56] Facts and Conclusions of NMPA, p. 60.
[57] Post-Hearing Brief, pp. 4 and 35.
[58] Ibid, p. 35 and Facts and Conclusions of NMPA, p. 61.
[59] Post-Hearing Brief, p. 35.
[60] Ibid, p. 35.
[61] Ibid, p. 36.
[62] Ibid, p. 34.
[63] Ibid, p. 34.
[64] Ibid, p. 36 and Facts and Conclusions of NMPA, p. 61.
[65] Post-Hearing Brief, pp. 36 and 37.
[66] Facts and Conclusions of NMPA, p. 61.
[67] Ibid, p. 147.
[68] Ibid, p. 68.
[69] Ibid, p. 74.

songwriter [70] both creatively and in promotion.[71]

The music publishers considered that the question of their own profitability is irrelevant.[72] Congress did not intend it to be considered,[73] and it is not related to the reasonable return for a song.[74] Nevertheless, at the request of the Tribunal the music publisher submitted "Aggregate Data Concerning the Financial Condition of Music Publishers" prepared by Praeger and Fenton.[75] According to this data, traditional music publishers had a modest return on revenue of between 5.17 percent in 1977 and 8.46 percent in 1979.[76] Their financial success also depends heavily on revenues from foreign mechanicals.[77]

The profits of the record industry, the music publishers argued, on the other hand, are relevant and have been substantial.[78] The prospects for the industry also continue to be strong in spite of 1979, when profits fell and which was an aberration [79] due to bad management.[80] Much fat exists in the industry [81] especially in sales, promotion, and general and administrative expenses.[82] And the record industry claims concerning the effect a royalty increase would have are exaggerated.[83] If the mechanical rate is increased to six percent of the suggested list price, at most the record companies would have to absorb or pass on 2.8 cents per song.[84] The music publishers also questioned the record companies' concern for the consumer.[85] Reductions in cost in the past have not been accompanied by a decrease in prices.[86] The repeal of the excise tax in 1965 [87] and the increase in the price of monaural albums through 1967 were cited as examples.[88] There is no difference between the increase in the mechanical rate and the increase of other costs.[89] Prices and other costs have risen in the past, while mechanicals have risen only slightly.[90] The rate of increase of all other record company costs from 1965–1980, according to the music publishers, was ten times as great as the increase in the mechanical royalty.[91]

The music publishers considered that a rise in the rate to six percent is fully consistent with the statutory criteria. The Tribunal above all must base its judgment on what is reasonable,[92] and, according to the music publishers, because the rate increase they propose is reasonable, it is therefore by definition consistent with the statutory criteria.[93]

As to the criteria specifically:

In the case of the first criteria, the music publishers argued that only an increase in the rate would provide sufficient economic incentive to maximize the availability of creative works to the public,[94] which the current 2¾ cent rate does not do.[95] With respect to the second criteria, the music publishers argued that the chief concern in evaluating return must be fairness [96] and that only with a rate of six percent could the copyright owners achieve a fair return on the basis of rates for music elsewhere.[97] Also, insuring a fair return to copyright owners and a fair income to copyright users does not require profits to be balanced.[98] The request to raise the copyright mechanical royalty is not to be confused with the burden of proof requirements in utility rate cases.[99] The music publishers contended that because profitability is not related to a fair return to copyright owners, their own profitability is irrelevant.[100]

Concerning the third criteria, the relative roles of the copyright owner and the copyright user, the music publisher argued that in terms of risk and time the greatest cost is borne by the songwriter.[101] Furthermore, in the case of the singer-songwriter there is direct financial investment because artist royalties are used to recover recording costs.[102] Financial risk is also borne by the music publisher.[103] By increasing the rate new markets would be opened to music.[104]

With respect to the fourth criteria, the music publishers contended that the record industry has absorbed cost increases in the past without suffering substantial disruption.[105] The Tribunal has the obligation to minimize disruptive impacts, but it is not required to avoid them altogether.[106] Neither the music publisher preferred proposal nor an increase in the flat rate with an annual CPI adjustment would have an impact that would be disruptive.[107] The industry could convert easily to a percentage system,[108] and such a system already exists with respect to artist royalties.[109] Furthermore, in acknowledging the need for an increase in their own proposal, the record industry has admitted that an increase *per se* would not be disruptive.[110]

The music publishers considered that a rate based upon percentage is preferable to a flat rate with an annual inflationary adjustment, first of all, because a percentage rate does not lag behind the acutal change in inflation,[111] and, second, because the rate applies to records individually.[112] In terms of lower priced records it would be the record companies who would benefit.[113] The Tribunal is not limited in its authority to institute a percentage based method,[114] and such a rate would assist the government in extricating itself further from having to adjust the rates of compulsory licenses.[115] It would also insure that the rate would remain reasonable until the next rate review in 1987,[116] and the percentage system already exists with respect to recording artists.[117]

The most appropriate basis on which a percentage rate should be applied, according to the music publishers, is the suggested list price.[118] It is well-entrenched, [119] and changes in the royalty rate would be related to changes in price.[120] Also, the suggested list price will last because it must be maintained

[70] Ibid, pp. 148–150.
[71] Ibid, pp. 69–73.
[72] Ibid, p. 47.
[73] Ibid, p. 47.
[74] Ibid, p. 47.
[75] Ibid, p. 136.
[76] Post-Hearing Brief, pp. 4 and 32.
[77] Ibid, p. 33.
[78] Facts and Conclusions of NMPA, pp. 138 and 140.
[79] Ibid, p. 23.
[80] Ibid, pp. 23 and 144.
[81] Post-Hearing Brief, p. 19.
[82] Post-Hearing Brief, pp. 19 and 20.
[83] Ibid, p. 52.
[84] Ibid, p. 16.
[85] Ibid, pp. 6 and 50.
[86] Ibid, p. 52.
[87] Ibid, p. 53.
[88] Ibid, p. 54.
[89] Ibid, p. 51.
[90] Ibid, p. 90.
[91] Facts and Conclusions of NMPA, p. 167.
[92] Ibid, p. 102.
[93] Ibid, p. 102.
[94] Ibid, p. 109.
[95] Ibid, p. 111.
[96] Ibid, pp. 116 and 117.
[97] Post-Hearing Brief, p. 8.
[98] Facts and Conclusions of NMPA, p. 116.
[99] Ibid, p. 117.
[100] Ibid, p. 135.
[101] Ibid, p. 155.
[102] Ibid, p. 160 and Post-Hearing Brief, p. 36.
[103] Ibid, pp. 156–157.
[104] Ibid, pp. 162–3.
[105] Ibid, p. 166.
[106] Post-Hearing Brief, p. 44.
[107] Facts and Conclusions of NMPA, p. 171 and Post Hearing Brief, p. 49.
[108] Facts and Conclusions of NMPA, p. 178
[109] Ibid, p. 178.
[110] Post-Hearing Brief, p. 60.
[111] Facts and Conclusions, p. 28 and post Hearing Brief, p. 75.
[112] Post Hearing Brief, p. 73.
[113] Ibid, p. 73.
[114] Ibid, p. 55–57 and Facts and Conclusions, p. 14–15.
[115] Ibid, p. 58.
[116] Facts and Conclusions, p. 186.
[117] Post Hearing Brief, p. 45.
[118] Facts and Conclusions, p. 189.
[119] Post Hearing Brief, p. 80.
[120] Facts and Conclusions, p. 193–194.

for artist royalties.[121] A rate based upon a percentage of the suggested list price would be self-administering [122] and would relieve the Tribunal of any continuing burden as a monitor.[123]

According to the proposal submitted by the music publishers, the six percent royalty would be allocated on the basis of units of time.[124] Works under one minute would receive one-third unit; works between one and five minutes would receive one unit; and works over five minutes would receive one-fifth unit per minute of playing time or fraction of a minute.[125] The share of each work would be the number of units assigned to it divided by the number of units on the record assigned to all works.[126] This would be its fraction of six percent of the suggested list price. The only requirement would be that the industry maintain *bona fide* suggested list prices.[127] The music publishers foresaw only one difficulty in that the record companies might not maintain their royalty files completely accurately.[128] The music publishers expressed concern that the Tribunal's regulation apply to the date upon which phonorecords have been made and distributed, and not simply to the date upon which they have been released.[129]

As an alternative, although not preferred, to the percentage rate, the music publishers proposed that the flat rate should be raised to 5 cents, and then be adjusted annually for inflation according to the Consumer Price Index.[130] A five cent flat rate would be approximately equivalent to six percent of current suggested list prices. And the CPI could serve as an adjustment mechanism because increases in the CPI have paralleled increases in record prices.[131] The adjustment procedure would consist only of an annual announcement by the Tribunal, a practice it has already followed.[132] The strength of the CPI is that it is the most widely used basis for adjustments for inflation.[133] The music publishers felt that the record industry destroyed the basis for its argument against the use of the CPI, because in its original objection the record industry opposed, not just the CPI, but any index for inflation, and yet later in its own proposal did introduce an inflationary index.[134]

Songwriters

The arguments of the songwriters were those of the music publishers. The mechanical royalty rate is too low.[135] As a percentage of suggested list price it has declined from over 8% in the 1940's and 6% in the 1950's and early 60's to a level that presently is 3.1%.[136] In comparison with artist royalties, mechanical royalties are disproportionately low.[137] There has been great erosion due to inflation,[138] which has been aggravated further by the decrease in the number of songs per album.[139] Contrary to the claim by the record industry, the erosion in the rate has not been compensated for by the increase in the volume of sales.[140]

The mechanical rate in Japan and most European countries is double that in the United States,[141] and on a per capita basis in several European countries volume of sales is higher.[142] This discrepancy is due to the fact that in the United States the royalty rate is fixed while abroad it is a percentage of price and therefore can fluctuate.[143]

The current level of the royalty rate has eliminated bargaining.[144] The songwriters argued that the decline in bargaining has accompanied the decline in the statutory ceiling as a percentage of record prices 145 and has been caused by inflation.[146] Bargaining would allow the copyright owner a fair return,[147] and the royalty rate should be set to encourage it,[148] therefore at the high end of the negotiating range.[149] The proof that little bargaining now exists is that licensing is organized for administrative convenience.[150] Recording artists, on the other hand, are free to bargain,[151] as are singer-songwriters and their controlled publishers.[152]

In comparison with the income of artists, the income of songwriters is small,[153] and income from other sources such as print sales should not be considered because it is outside the bounds of the mechanical royalty.[154]

The singer-songwriter is not relevant to the proceeding.[155] Their compensation, as well as that of the singer-songwriter-controlled publisher, is the result of free negotiation.[156]

Publishers' profits are equally irrelevant, [157] in that the publisher is the assignee of the songwriter,[158] and the relation between them are determined by free negotiation,[159] which is shown by the fact that the split has evolved over the years in favor of the songwriter.[160]

An increase in the mechanical rate will not have the serious effects the industry claims; in 1978 the mechanical increased and there were none.[161] The effects of the 1979 recession are past.[162] In comparison with other costs, mechanical royalties are trivial.[163] An increase will not have the effect upon the consumer the industry claims.[164] It can be counterbalanced by the reduction of other expenses, such as general and administrative costs, and these are already swollen and would not increase automatically with an increase in the mechanical anyway.[165] Retailers would not necessarily have to include any increase in the mechanical in their percentage markups.[166] Their flexibility in this regard is already proved by the existence of discounting.[167] Price increases have taken place in the past, and they have not been due to an increase in the mechanical.[168]

The claims of financial woe on the part of the recording industry, according to the songwriters, are not justified.[169] The figures submitted by the industry do not reflect profits accurately.[170] There is no reliable profit information available,[171] and industry revenues have not been matched to industry

[121] Post Hearing Brief, p. 81.
[122] Ibid. p. 78.
[123] Ibid. p. 77.
[124] Facts and Conclusions, p. 197–201.
[125] Ibid, p. 198.
[126] Ibid. p. 198 and 211.
[127] Post Hearing Brief, p. 82.
[128] Ibid, p. 48.
[129] Ibid, p. 71.
[130] Facts and Conclusions, p. 202–203.
[131] Ibid., p. 207.
[132] Post Hearing Brief, p. 83.
[133] Facts and Conclusions, p. 209.
[134] Post Hearing Brief, p. 56.
[135] Post-Hearing Brief of American Guild of Authors and Composers and Nashville Songwriters Association International, Nov. 17, 1980, p. 7 and 18.
[136] Ibid, p. 32.
[137] Ibid, p. 22.
[138] Ibid, p. 2 and 29.
[139] Ibid, p. 37.
[140] Ibid, p. 29.
[141] Ibid, p. 27.
[142] Ibid, p. 28.
[143] Ibid, p. 28 and 29.
[144] Ibid, p. 2.
[145] Ibid, p. 40.
[146] Ibid, p. 41.
[147] Ibid. p. 18.
[148] Ibid, p. 2.
[149] Ibid, p. 14 and 73.
[150] Ibid, p. 45.
[151] Ibid, p. 23.
[152] Ibid, p. 56–57.
[153] Ibid, p. 25.
[154] Ibid, p. 21.
[155] Ibid, p. 4.
[156] Ibid, p. 53 and 54.
[157] Ibid, p. 3.
[158] Ibid, p. 51.
[159] Ibid, p. 52.
[160] Ibid, p. 52.
[161] Ibid, p. 12 and 74.
[162] Ibid, p. 52.
[163] Ibid, p. 5 and 73.
[164] Ibid, p. 77.
[165] Ibid, p. 77.
[166] Ibid, p. 79.
[167] Ibid, p. 80.
[168] Ibid, p. 78.
[169] Ibid, p. 5.
[170] Ibid, p. 62.
[171] Ibid, p. 58.

costs.[172] The picture is further clouded, the songwriters contended, by the tax advantages of leaving profits in foreign subsidiaries.[173] The songwriters questioned the industry's breakeven analysis, especially as it applied to small companies.[174]

In order to satisfy the first statutory criterion and encourage the development of the necessary pool of creative musical talent there must be an increase in the rate.[175] The reduction of the number of good tunes that has occurred can be attributed to its current low level.[176] The songwriters considered that the most important criterion is the one requiring the Tribunal to afford the copyright owner a fair return.[177] The songwriters felt that as for affording the copyright user a fair income there was no guidance,[178] especially since in comparison with other costs the mechanical royalty is insignificant.[179] Only a rate that is high enough to produce bargaining will reflect adequately the relative roles of the copyright owner and copyright user.[180] In respect to such elements as investment and risk the relative roles cancel each other out.[181] The Tribunal should minimize disruptive impacts, but it should not avoid all impact whatsoever if fair return is at stake.[182]

The rate should be set as a percentage of suggested retail list price.[183] The administrative problems are not that great 184 and artist royalties are currently already calculated in that fashion.[185] The best base for any percentage rate is the suggested retail list price.[186] In its absence, the Tribunal should adopt an adjustment for the cost of living.[187]

According to the songwriters, the percentage of the suggested retail list price should be set at 8%.[188] This would return the rate to the level that existed in the 1940's when bargaining was common,[189] and a 6% rate would not achieve this.[190] An 8% rate would approach the range at which royalties are paid in Europe but would still not achieve it.[191]

Recording Industry

The recording industry argued that no increase in the rate was appropriate now.[192] In retaining the compulsory license and creating the Tribunal,[193] Congress intended for the Tribunal, not the marketplace, to set the rate,[194] and in doing so, the Tribunal must adhere to the statutory criteria.[195] According to these criteria no increase is presently justified.[196] The compulsory license itself maximize the availability of creative works to the public.[197]

According to the recording industry, copyright owners are already doing extremely well under the current rate [198] and, including the traditional publishers, are doing better than copyright users.[199] Singer-songwriters who receive 50% to 60% of all mechanical royalties,[200] dominate the industry,[201] and non-singer-songwriters, but composers who are successful are also doing well.[202] The recording industry argued that the Tribunal must consider "fair return" in terms of fair profit [203] and considered that the studies submitted by both the songwriters and the music publishers were lacking as a basis on which to do so because they did not fully report all income.[204]

According to the recording industry, mechanicals on a per-tune basis have increased twice as fast as inflation [205] and when taken in the aggregate have kept pace with, or exceeded, inflation in every year for which the recording industry has data.[206] The recording industry stressed that in the Francis Report in England the importance of sales volume was recognized in the consideration of an equitable royalty rate.[207] According to the recording industry, the issue is income, not the royalty rate in the abstract.[208] As a result, it is necessary to consider all income related to the recording of a song, such as performance rights, synchronization, and print sales,[209] because the recording of a song is what its earning power is dependent upon.[210] These sources of income have increased and between 1974 and 1979 outpaced inflation.[211]

The recording industry stressed that any examination of the financial situation of the copyright owners must take into account the fact that mechanical royalties are concentrated in the hands of a few [212] and argued also that in the arts skewed income distribution is to be expected.[213] The recording industry considered that the incomes of successful composers are both good [214] and higher than those of the general populations.[215] The Tribunal should not consider the income of poor songwriters, the industry argued,[216] and criticized the survey submitted by the songwriters as too biased towards them,[217] because no matter how much the royalty rate is increased the poor songwriter will not be helped.[218] The difficulty affecting the poor songwriter is the fact that his songs don't sell, not the royalty rate.[219] Those who would benefit most from an increase are the singer-songwriter [220] and they are already thriving.[221]

The recording industry considered also that music publishers are very profitable,[222] even when they serve only as administrators for singer-songwriters.[223] Their income has kept pace with inflation,[224] and the health of the industry is shown by their own survey.[225] This is true not only for controlled publishers but also for traditional publishers as well.[226] The recording industry suggested that the usual split between the songwriter and the publisher should therefore be reexamined.[227] The recording industry argued that under the statutory criteria

[172] Ibid, p. 64 and 69.
[173] Ibid, p. 66.
[174] Ibid, p. 81.
[175] Ibid, p. 9.
[176] Ibid, p. 44.
[177] Ibid, p. 13.
[178] Ibid, p. 57.
[179] Ibid, p. 57.
[180] Ibid, p. 86.
[181] Ibid, p. 88.
[182] Ibid, p. 88.
[183] Ibid, p. 90.
[184] Ibid, p. 91.
[185] Ibid, p. 94.
[186] Ibid, p. 32 and 33.
[187] Ibid, p. 95.
[188] Ibid, p. 48.
[189] Ibid, p. 48.
[190] Ibid, p. 59.
[191] Ibid, p. 51.
[192] Proposed Findings of Facl and Conclusions of Law of the Recording Industry Association of America, Nov. 17, 1980, p. 6.
[193] Ibid, p. 193.
[194] Ibid, p. 190–191 and Summary of Proposed Findings of Facl and Conclusions of Law of the Recording Industry of America, Nov. 17, 1980, p. 35.
[195] Summary, p. 1
[196] Findings, p. 293.
[197] Ibid., p. 175 and CBS Inc. Findings of Facl, p. 4–7.
[198] Summary, p. 3 and Findings, p. 41.
[199] Summary, p. 16.
[200] Findings, p. 10.
[201] Ibid, p. 7.
[202] Ibid, p. 27.
[203] Ibid, p. 27.
[204] Ibid, pp. 35 and 81–89.
[205] Summary, p. 6 and Findings, p. 16.
[206] Findings, p. 14 and Summary, p. 6.
[207] Findings, p. 26.
[208] Ibid, p. 25.
[209] Ibid, pp. 20 and 24.
[210] Ibid, p. 21.
[211] Ibid, p. 18.
[212] Ibid, p. 10.
[213] Ibid, p. 38.
[214] Summary, p. 12.
[215] Ibid, p. 13.
[216] Findings, p. 30.
[217] Ibid, pp. 31 and 32.
[218] Summary, p. 13.
[219] Findings, p. 39.
[220] Ibid, p. 158.
[221] Summary, p. 4.
[222] Findings, p. 41 and Summary, p. 4.
[223] Findings, p. 13.
[224] Ibid, p. 42.
[225] Summary, p. 11.
[226] Findings, pp. 11 and 12; and Summary, p. 6.
[227] Findings, p. 40.

it is the music publishers' profitability that the Tribunal must consider.[228] An increase in the mechanical would only provide them unearned windfall profits.[229] Comparing incomes from 1974 to 1979,[230] music publishing has been more profitable than the recording industry.[231] The profits of even traditional publishers have increased while recording industry profits have declined.[232] The recording industry argued that this comparison of profitability was one the Tribunal must take into consideration under the second criterion.[233] Music publishers earned money regardless of whether or not the record company losses [234] or breaks even [235] and, continues to earn over a long period of time without any additional effort.[236]

The reliability of the financial data submitted by the music publishers was brought into question by the recording industry,[237] in particular concerning the small amount of royalties distributed to controlled publishers.[238] The recording industry argued that because income from foreign sources has become increasingly important to music publishers,[239] if record companies must account for foreign license income, music publishers must also account for the foreign mechanical income from those same masters.[240]

According to the recording industry, the songwriter continues to make a significant contribution, but the role of the music publisher has declined,[241] and this has been caused by the growing importance of the singer-songwriter [242] and the controlled publisher.[243] Today, publishers are simply administrators,[244] have minimal costs,[245] and leave the promotion of a song up to the record company.[246] Publishers rarely give advances to artists according to the recording industry,[247] or spend significant sums to make music available to the public.[248] They therefore no longer fill their original role as discoverers of new talent.[249] Music publishers bear little risk,[250] and the relationship of their risk to their return is out of balance.[251] Their investment is minimal,[252] and the investment as well as risk even of artists is greater because they at least recover recording costs with their royalties.[253]

On the other hand, the recording industry fails to receive a fair income.[254] Its pre-tax return has been below that of the Fortune 500,[255] and its profitability has declined.[256] The recording industry presented a study by the Cambridge Research Institute upon which to base its judgment about the industry,[257] and the respondents to the study represent approximately 60% to 70% of domestic sales.[258] In the view of the recording industry the study, if anything, overstates industry profits.[259]

The recording industry considered that it was important to take into account the year 1979 because it was a year in which the industry suffered severe losses.[260] These were due to spiraling costs,[261] large volumes of returns,[262] consumer price resistance,[263] the reduction in the number of albums sold per customer,[264] sensitivity to price distributors as well as by customers,[265] and privacy, counterfeiting, and home taping.[266] The losses were not due to bad management.[267] The heavy expenditures on sales that occurred was a decision that was based on experience,[268] and it is always a gamble.[269] In many instances the expenditures were demanded by the artists themselves.[270]

The significance of 1979 was that it caused the industry to institute many changes which altered its character.[271] Costs were cut,[272] employees laid off,[273] artist roster and new signings reduced,[274] stricter policies adopted with regard to distributors and retailers,[275] the number of releases cut,[276] and prices lowered.[277] Measures to combat counterfeiting were considered, but were found to be too costly.[278] Artists agreed to accept lower royalties,[279] but music publishers were not approached to do so because on the basis of its experience the recording industry did not expect the music publishers to agree.[280] The present is a period of transition according to the recording industry,[281] and the industry stressed the significance of the structural changes that have occurred.[282]

Against this background the recording industry argued that in comparison with the copyright owner its role has expanded.[283] The third statutory criterion requires that the relative contributions of the copyright owners and copyright user be compared, and the recording industry presented evidence to show its contribution is greater.[284] Its role is vital in finding and producing talent,[285] and continued to remain important in spite of the rise of the independent producer.[286] Record companies develop artists' careers,[287] introduce new technology,[288] L.P.'s, stereo, tapes,[289] reduce manufacturing costs,[290] and bear the risk if new technologies don't succeed.[291] Recording companies make substantial capital investment,[292] bearing most costs,[293] and these costs have risen faster than inflation.[294] The risk borne by the recording industry [295] can be measured by the fluctuation in profit levels,[296] the volatility of returns,[297] the

[228] Ibid, p. 27.
[229] Ibid. p. 159.
[230] Ibid. p. 76.
[231] Ibid. pp. 72 and 79.
[232] Ibid. p. 73.
[233] Findings, p. 70.
[234] Ibid, p. 135.
[235] Summary, p. 22.
[236] Findings, p. 136.
[237] Ibid, pp. 81–89.
[238] Ibid, p. 90.
[239] Ibid, p. 20.
[240] Ibid, p. 44.
[241] Ibid, p. 101.
[242] Ibid, p. 103.
[243] Ibid, p. 111.
[244] Findings, p. 110 and Summary p. 21.
[245] Findings, p. 125.
[246] Ibid, pp. 104–107 and 124.
[247] Ibid, p. 124.
[248] Ibid, p. 123.
[249] Summary, p. 20.
[250] Findings, pp. 134 and 136.
[251] Ibid, p. 137.
[252] Ibid, p. 139.
[253] Ibid, p. 135.
[254] Ibid, p. 43.
[255] Ibid, pp. 46–47.
[256] Ibid, p. 45.
[257] Ibid, p. 91.
[258] Ibid, pp. 92–94.
[259] Ibid, p. 94.
[260] Ibid, p. 43.
[261] Ibid, p. 47.
[262] Ibid, pp. 47–48.
[263] Ibid, p. 48.
[264] Ibid, p. 50.
[265] Ibid, p. 50.
[266] Ibid, p. 51.
[267] Ibid, p. 56.
[268] Ibid, p. 57.
[269] Ibid, p. 57.
[270] Ibid, p. 58.
[271] Findings, p. 59 and Summary p. 15.
[272] Findings, pp. 59 and 64.
[273] Ibid, p. 60.
[274] Ibid, p. 60.
[275] Ibid, p. 61.
[276] Ibid, pp. 64–69.
[277] Ibid, p. 65.
[278] Ibid, p. 64.
[279] Ibid, p. 66.
[280] Ibid, p. 67.
[281] Ibid, p. 67.
[282] Ibid, p. 53.
[283] Summary, p. 21.
[284] Findings, p. 149.
[285] Ibid, p. 97.
[286] Ibid, p. 99.
[287] Ibid, p. 100.
[288] Ibid, p. 140.
[289] Ibid, p. 141–142.
[290] Ibid, p. 143.
[291] Ibid, p. 144.
[292] Ibid, p. 137–140.
[293] Ibid, p. 111–118.
[294] Ibid, p. 121.
[295] Ibid, p. 126.
[296] Ibid, p. 127.
[297] Ibid, p. 127.

wide variation in recording costs,[298] and the number of firms leaving the industry.[299] The riskiness of demand is increased because of the dependence for success upon a few albums,[300] eighty percent (80%) of which don't break even.[301] Finally the recording industry claimed that it bears the responsibility for opening new markets.[302]

The recording industry argued that the mechanical royalty rate should not be changed because copyright owners are already earning a fair return,[303] and the criteria under the statute are already satisfied.[304] The current rate, according to the recording industry, maximizes the availability of creative works to the public.[305] An increase in the rate would reduce this availability[306] because it would cause the consumer to pay more, and the copyright owners would be those harmed.[307] According to the recording industry, there is already an imbalance between the supply and demand of tunes,[308] with the registration of tunes increasing[309] and the number of releases declining.[310] No evidence exists that the number of tunes will increase if the rate is increased,[311] but an increase in their price will reduce therecording industry's demand for them.[312] Artist rosters would be reduced[313] and only those artists would be released who are already proven.[314] The most hurt would be smaller companies[315] and specialized music such as jazz.[316] The industry claimed that its marketing strategy would be jeopardized.[317] An increase in the mechanical rate, according to the recording industry, would therefore reduce the availability of creative works,[318] and from the standpoint of fair return, an increase in the rate would increase music publishers' profits without their being any economic need shown.[319]

The recording industry claimed that an increase in the rate on the order of that proposed by the music publishers would produce a staggering impact and cost upon the industry.[320] Cost increases have been supported in the past, but not of such a sudden magnitude.[321] Volume would drop,[322] and there would be a reduction in the number of releases.[323] The increase could not be financed out of G & A expense, the industry claimed,[324] manufacturing costs,[325] or by negotiating reductions in artist royalties.[326] The artist rather than bargain could go elsewhere.[327] Higher prices would further stimulate piracy.[328] According to the recording industry the cost could be as much as .83 cent per album,[329] and the consumers pay $335 million per year.[330] There would also result a successive series of price rises.[331] Finally, the industry argued that as for the impact of an increase being lessened by bargaining this would not occur.[332]

The industry also opposed the concept that the mechanical rate should be set high enough so that it would encourage bargaining.[333] The rate must be reasonable in order to meet the criteria, and if it is high enough to encourage bargaining, by definition it would be unreasonable.[334] The recording industry argued that bargaining would still not occur even if the rate were increased.[335] It does not occur on first releases now[336] and the full rate is paid in the schlock market.[337] The large majority of licenses are at the statutory rate the recording industry claimed,[338] and language in licenses specifying the statutory rate has already been incorporated in them.[339] In the past, rate reductions have been refused by music publishers,[340] and it is to the statutory rate that the contracts of singer-songwriters are tied.[341] When the rate went up to 2¾ cents, that was what the rate became.[342] The recording industry claimed that administratively tune-by-tune bargaining is impossible,[343] and from the publishers' point of view makes no sense.[344] The recording industry has no bargaining power because licenses traditionally are requested after a recording has already been made,[345] and composing often takes place in the studio.[346] It has been the Harry Fox Agency itself which has perpetuated the practice of not licensing until after a recording has been made.[347] According to the recording industry bargaining on a tune-by-tune basis doesn't occur anywhere in the world.[348]

The recording industry argued that a historically effective rate has never existed.[349] Rates today, according to the recording industry, range from 3.7% to 4.6% of suggested list price,[350] and during the period 1955–1966 were approximately 4.6% to 5.2%, at no time reaching 6%.[351] As a percentage the rate has been further clouded by discounting.[352] The period 1955–1966 which, according to the recording industry, the publishers used on which to lose their historical comparisons bears no relationship with the industry today.[353]

The recording industry objected to the songwriters' proposal to increase the rate to 8% on the grounds that there is no basis for it.[354] The true incidence of the Biem rate in Europe is not 8%[355] but, according to the recording industry, significantly less.[356] The recording industry objected further on the grounds that no study was made of the impact such a rate would have.[357]

The recording industry opposed changing the mechanical rate to a percentage.[358] First of all, because there is the question as to the Tribunal's authority to do so,[359] and second, because, a percentage rate would violate the statutory criteria.[360] A

[298] Ibid, p. 127.
[299] Ibid, p. 128.
[300] Ibid, p. 130–131.
[301] Ibid, p. 95, 96, and 131.
[302] Ibid, p. 148.
[303] Ibid, p. 6 and 80.
[304] Ibid, p. 293.
[305] Summary, p. 25.
[306] Findings, p. 181–167.
[307] Ibid, p. 157.
[308] Ibid, p. 174.
[309] Ibid, p. 177 and 179.
[310] Summary, p. 26.
[311] Findings, p. 179.
[312] Ibid, p. 180–181.
[313] Ibid, p. 181.
[314] Ibid, p. 182.
[315] Ibid, p. 184.
[316] Ibid, p. 183.
[317] Summary, p. 32.
[318] Findings, p. 182.
[319] Ibid, p. 158–159 and CBS Findings, p. 22.
[320] Ibid, p. 150 and Summary, p. 27.
[321] Findings, p. 151.
[322] Ibid, p. 152.
[323] Summary, p. 28.
[324] Findings, p. 153.
[325] Ibid, p. 154.
[326] Ibid, p. 154.
[327] Ibid, p. 155.
[328] Ibid, p. 156.
[329] Ibid, p. 167.
[330] Ibid, p. 170.
[331] Ibid, p. 171.
[332] Ibid, pp. 206–208.
[333] Ibid, p. 190.
[334] Ibid, pp. 190–191 and Summary, p. 36.
[335] Ibid, p. 194 and Ibid, p. 36.
[336] Findings, 195.
[337] Ibid, p. 196.
[338] Ibid, p. 197.
[339] Ibid, p. 198.
[340] Ibid, p. 157.
[341] Ibid, p. 198.
[342] Summary, p. 38.
[343] Findings, p. 200.
[344] Ibid, p. 202.
[345] Ibid, p. 203.
[346] Ibid, p. 204.
[347] Ibid, p. 205.
[348] Ibid, p. 202.
[349] Ibid, p. 209 and Summary, p. 39.
[350] Findings, p. 210.
[351] Ibid, pp. 212–213.
[352] Ibid, p. 211.
[353] Ibid, p. 213 and CBS Findings, p. 37.
[354] Ibid, p. 186 and Summary p. 33.
[355] Findings, p. 187.
[356] Ibid, pp. 187–188.
[357] Ibid, p. 189.
[358] Ibid, p. 217 and CBS Findings, pp. 9–12.
[359] Ibid, p. 258 and Summary, p. 48, and CBS Findings, pp. 9–12.
[360] Findings, p. 217.

percentage rate would disrupt the industry and be unpredictable.[361] Royalty costs could not be predicted,[362] and the rate would be inflationary because royalties would be related to costs that are unrelated.[363] To the extent the impact would be disruptive technological innovations would be discouraged.[364] The cost to implement and administer would be great,[365] involving new computer systems and increased input data;[366] and all of these costs would have to be borne by the recording industry.[367] the impact would be particularly great on small companies.[368] The old flat rate would continue to exist with the new percentage rate, and therefore two systems would have to be maintained simultaneously.[369]

The recording industry argued that there is no comparison between a percentage rate for mechanicals and the practice of calculating artist royalties as a percentage.70 Royalties are not earned by artists until after their recording costs are recovered,[371] and artists bear other costs which are not born by composers.[372] Artists also play a marketing role that in the judgment of the recording industry composers do not,[373] and their popularity is brief.[374] The percentage system used for artists is not one the industry could adopt,[375] primarily because many more calculations are involved in calculating mechanical royalties then with royalties for artists.[376]

The recording industry claimed that there is no relationship between the percentage rate proposed by the music publishers and practices in Europe.[377] European mechanical royalties on a given record are not divided according to the time on that record a tune occupies,[378] and in Europe the cost of administering the mechanical royalty system is born by the copyright owners.[379] Complications have also arisen in establishing a base upon which the percentage can be calculated,[380] and a flat rate system is currently being contemplated.[381] The recording industry denied that there was any contradiction in its opposing a percentage mechanical royalty and at the same time advocating performance rights, in that the impact upon the American recording industry of introducing percentage mechanical royalty is dissimilar from that which would result if performance rights were adopted.[382]

The recording industry argued that the suggested list price would not be practical as a base.[383] The increase of discounting and the issues raised concerning its legality cause it to be questionable that the suggested list price will still be in existence in 1987.[384] According to the recording industry, wholesale prices would not serve as an alternative substitute.[385] They vary between and within companies, and they change frequently.[386] Because of the difficulty of determining what actual selling prices are, they also would not be a substitute.[387]

The recording industry opposed equally adjusting the mechanical royalty rate according to the Consumer Price Index,[388] because changes in record prices were considered the fairest basis for any adjustment, not the CPI.[389] No relationship exists between the CPI and record prices 390 and with a cost of living adjustment no consideration would be given to the benefit to copyright owners of sales volume.[391] As a result, with a cost of living adjustment, the increase of mechanicals in the aggregate would be faster than inflation.[392] An increase in prices would be caused 393 and this in turn would hamper industry growth.[394] The recording industry questioned whether the CPI was an accurate measure of inflation,[395] and argued finally that there is no relationship between it and the statutory criteria.[396]

Because the recording industry acknowledged that incertainties do exist concerning the future and inflation, a proposal was presented which was intended to meet these concerns.[397] Under it, no change at present would take place with the current rate, but subsequent adjustments would occur in 1982 and 1985,[398] proportional to the change in the average suggested list price of leading albums since 1980. The average price would be computed on the basis of the prices appearing during the year in *Billboard*, *Record World*, and *Cashbox*, and any disputes concerning the calculations would be resolved by a mutually acceptable public accountant.[399] In the event suggested list prices are eliminated, other adjustments would be calculated on the basis of changes in average wholesale prices.[400] The strength of this proposal, in the recording industry's judgments, was that, while not changing the current rate, it allowed for adjustments for inflation in the future.[401] Also, adjustments would be linked, not to an external index, but to one that reflects the condition of the industry.[402] The flat rate would be retained.[403] The system would be self-executing.[404] And no unlawful delegation of the Tribunal's authority, in the judgment of the recording industry would occur.[405] The recording industry considered that, as the year of the Tribunal's initial determination, the most appropriate base year was 1980.[406] The lag in adjustment between the years would be compensated by sales volume.[407]

Economic Submissions of the Parties

Introduction

During the course of the mechanical royalty proceedings certain financial evidence was submitted by the parties. The evidence included six studies. The *songwriters* through AGAC and NSAI presented a study from Rinfret Associates, Inc., an economic consulting firm. The *publishers* presented studies by Robert Nathan Associates, an economic consulting firm and Praeger & Fenton, a certified public accounting firm. The RIAA representing the *recording industry* submitted a study of financial and operating performance. The Study was conducted by the Cambridge Research Institute, a management and economic research

[361] Ibid. pp. 217–218.
[362] Ibid. p. 220.
[363] Ibid. p. 221.
[364] Ibid. p. 223.
[365] Ibid. pp. 227–245.
[366] Ibid. pp. 229–230.
[367] Ibid. p. 245.
[368] Ibid. p. 242.
[369] Ibid. p. 243.
[370] Ibid. p. 224.
[371] Ibid. p. 224.
[372] Ibid. p. 224–225.
[373] Ibid. p. 225.
[374] Ibid. p. 225.
[375] Ibid. p. 244.
[376] Ibid. p. 245.
[377] Ibid. p. 220.
[378] Ibid. p. 220.
[379] Ibid. p. 248.
[380] Ibid. p. 252.
[381] Ibid. p. 248.
[382] Ibid. p. 228.
[383] Ibid. p. 252.
[384] Ibid. p. 252.
[385] Ibid. p. 254.
[386] Ibid. p. 254–255.
[387] Ibid. p. 257.
[388] Ibid. p. 264.
[389] Ibid. p. 264.
[390] Ibid. p. 265.
[391] Ibid. p. 266.
[392] Ibid. p. 269.
[393] Ibid. p. 269.
[394] Ibid. p. 270.
[395] Ibid. p. 272.
[396] Ibid. p. 273.
[397] Ibid. p. 274.
[398] Ibid. p. 274.
[399] Ibid. p. 275.
[400] Ibid. p. 276.
[401] Ibid. p. 276.
[402] Ibid. p. 277.
[403] Ibid. p. 281.
[404] Ibid. p. 279.
[405] Ibid. p. 284.
[406] Ibid. p. 287.
[407] Summary, p. 61.

firm for the RIAA. The RIAA also submitted a study of Average Retail Prices of L.P.'s Tapes, and Singles, and a study of Album Content and Tune Length.

Songwriters (AGAC and NSAI)

Rinfret Study

The Study by Rinfret Associates, Inc. (Rinfret Study) recommended an immediate upward adjustment of the statutory rate to at least eight percent of the suggested retail list price of phonorecords.[408] The study rejected expressing the mechanical royalty as a flat cent rate, concluding that such rate is and would be unable to maintain its purchasing power under inflationary pressure.[409]

The Rinfret Study was based on economic data relating to inflation from 1909 to the present and on a survey of income data provided for the period 1974–1979 by 1017 songwriters in response to a questionnaire distributed to AGAC and NSAI members. Rinfret Associates conducted the survey in accordance with the Tribunal's Rules of Procedure. The underlying questionnaire responses were subsequently made available to counsel and the Tribunal for review. The questionnaire sought information with respect to the following categories: creative production of works; publishing history; recording history; recording sales success; songwriting income flow; songwriter publishing ownership interest; songwriter mechanical royalty share; sources of music related and other income; inflation protection; insurance benefits; and retirement provisions.[410]

According to the study, in 1979 about 73 percent of the respondents received $11,500 or less from music related sources of income, while 47.5 percent of respondents received up to $11,500 total income from music and non-music related sources.[411] Only 20 percent of the respondents claim to be able to support themselves as full-time songwriters, and 59 percent describe their income from songwriting as "completely unpredictable."[412]

The Rinfret Study reports that the historical split of mechanical royalties among copyright owners has increased in favor of the songwriter's share. About 21 percent of respondents have complete ownership rights to the royalties generated by their copyrights; another 16 percent of respondents have more than a 50 percent interest.[413]

The Rinfret Study shows that in real purchasing terms, the two cent statutory rate in 1909 had the equivalence of 14.5 cents of purchasing power in 1978 dollars based on the Consumer's Price Index.[414] The study also indicated that the 2¾ cent interim rate has also seriously eroded under inflationary pressure. In the period January 1978 (the effective date of the interim increase) to February 1980, the Consumer Price Index increased more than 20 percent; record and tape prices increased more than 10 percent; and the purchasing power of the price-fixed mechanical royalty decreased 18 percent.[415]

The Rinfret Study contains data which show that while record companies are able to raise prices during periods of inflation, songwriters receive an ever-decreasing rate of return for their creative efforts.[416]

The study recognizes that indexing a flat cent rate to changes in the cost of living would maintain some of the purchasing power of the intended adjustment. However, it regards the use of an index as less equitable than expressing the rate payable as a percentage of price. Under a cost-of-living adjustment, increases in the rate will always lag behind actual increases in inflation, thus perpetuating a built-in inequity.[417]

The Rinfret Study concluded that data currently available strongly support an upward adjustment of the statutory rate and that the statutory royalty should be expressed as a percentage of the suggested retail list price of phonorecords in order to ensure a reasonable rate of return under existing economic conditions. The Study concluded that despite the availability of multiple sources of income, both music and non-music related, songwriting is a high risk occupation, deriving very low economic rewards, with few fringe benefits, and few protections against economic, financial and social adversity.[418] The Rinfret Study further concludes that a flat cent royalty is completely incapable of resisting inflationary pressure.[419]

Publishers (NMPA)

Praeger & Fenton Study

The Tribunal requested NMPA and music publishers to assemble and present data for the years 1977, 1978, and 1979 in the following areas: (a) Domestic and foreign revenues from mechanical royalties, performance fees, print license revenues, and revenues for administrative service to controlled publishers; (b) Expenses for mechanical, performance and print license payments; selling and promotion; general and administrative; and (c) Printing and miscellaneous income and total profit before tax. The Tribunal further directed "that the survey sample be structured so as to reflect the distinct roles of traditional and controlled publishers."

NMPA continues to maintain that the profitability of copyright owners is irrelevant to a fair determination under the criteria governing this proceeding. NMPA complied with the Tribunal's request for aggregate financial data and commissioned a financial survey of NMPA's 204 members and of 73 non-member music publishers considered to be associated with singer-songwriters for a total of 277.

The Survey of music publishers was conducted on behalf of NMPA by Praeger and Fenton, a certified public accounting firm. On October 1, 1980, NMPA submitted Aggregate Data Concerning the Financial Condition of Music Publishers to the Tribunal. Such data were based on the responses of 116 music publishers, 96 of which provided financial information. Accounting methods and reporting periods differed from response to response. The conclusion of the survey was that annual aggregate pre-tax income of traditional music publishers, based on revenues, ranged from 5% to 8.5%. Uncontroverted testimony demonstrated that even the modest return on revenues enjoyed by U.S. music publishers would be substantially lower if foreign-earned mechanicals were paid at the American rate. Based on the financial data submitted and allowing for market share and rate differentials, foreign royalties account for approximately 16 percent of U.S. publisher total revenues, 60 percent of which is paid out to songwriters. Foreign mechanical royalties would account for only seven percent of U.S. music publisher revenues if they were paid at the 2¾ cent U.S. rate.[420]

Analysis of the data submitted also shows that in 1979, U.S. music publishers would have earned not 8.5 but five percent return on revenues if foreign mechanicals has been paid at the American rate; in 1978, the seven percent return on revenues would have been reduced to 3.5 percent; and, in 1977, the 5.17 percent return on revenues

[408] Rinfret Study, vol. 1, pp. 37–38.
[409] Ibid, vol. 1, p. 35.
[410] Rinfret Study, vol. 1, pp. 4–5.
[411] Ibid, vol. 1, pp. 11–13.
[412] Ibid, vol. 1, pp. 6, 10, 15.
[413] Ibid, vol. 1, p. 10.
[414] Ibid, vol. 1, p. 27.
[415] Ibid, vol. 1, p. 35.
[416] Rinfret Study, vol. 1, pp. 22–34.
[417] Ibid, vol. 1, p. 38.
[418] Ibid, vol. 1, pp. 1, 35.
[419] Ibid, vol. 1, p. 1.
[420] Tr. 10/9/80, Strauss, pp. 74–75.

would have been reduced to less than two percent.[421]

Robert R. Nathan Associates, Inc. Study (Nathan)

Robert R. Nathan Associates, Inc. (Nathan) submitted analysis and data for the period 1909 to date on behalf of NMPA in accordance with the Tribunal's Rules of Procedure.[422]

The Nathan Study concluded that the statutory rate, historically equivalent to an effective rate of six percent of the suggested retail list price of phonorecords, has deteriorated to a level of little more than three percent of list price. The study further concludes that the compulsory license system no longer accommodates the proper function of the free market and denies copyright owners their right to negotiate royalties at a rate which fairly reflects the market value of their musical compositions.[423]

The Nathan Study indicates that during the period 1963–1974, record company gross revenues increased substantially, while the mechanical royalty rate declined as a percentage of record sales.[424] The data presented illustrates that from 1963 to 1974, sales of recorded music increased from $361 million to $1,172 million.[425] Those data further show that in the period from 1964 through 1974, aggregate royalties actually paid to copyright owners declined from an average of about 11.2 percent of record sales at wholesale to about 7.2 percent.[426]

The study indicates that in the period from 1964 through 1974, royalties paid by record companies to recording artists far outpaced mechanical royalties, rising to an average of 16.8 percent of record sales at wholesale.[427]

The study shows that between 1973 and 1979, the record industry experiences phenomenal sales growth, with record sales almost doubling, from $2 billion to nearly $4 billion at retail list price.[428] It attributes such growth to two factors: an increase in unit sales (which may result in higher aggregate mechanical royalties and an increase in the suggested retail list price of records (which does not). Unit sales of albums rose by 22 percent in the 1973–78 period, while the average suggested retail list price of albums and tapes rose 54 percent, and that of singles, 65 percent.[429] Further, accompanying the increase in record prices was a continued decline in the number of songs per album, from twelve in 1965 to ten in 1979.[430]

The Nathan Study indicated the impact of inflation by stating that the original two-cent royalty of 1909 commands little more than one-tenth of its purchasing power today. Further, the study states that the 2¾ cent royalty presently in effect purchases today what the 2 cent royalty purchased in 1976. The study indicates a steady reduction in the number of songs per album. The volume of songs sold increased on average only two percent per annum in the period 1974–1979.[431]

The Nathan Study further shows that the market position of copyright owners has deteriorated relative to that of others in the economy, including music arrangers, nonsymphony musicians, and industrial workers.[432] It shows that the market position of copyright owners has also deteriorated relative to that of performing artists. Available data show that average artist royalties range between ten and as high as twenty percent of list price.[433]

The Nathan Study does not regard increasing sales volume as an acceptable adjusting factor for inflation. The study shows that the increase in record sales volume has resulted in a mere two percent increase per annum in the volume of copyright songs sold to the public. Further, that aggregate mechanical royalties paid have not kept pace with record sales.[434]
The Nathan Study shows that mechanical royalties are paid at a higher rate abroad than in the United States. Moreover, in all countries (other than Canada and the Soviet Union), the royalty payable is expressed as a percentage of price.[435]

The Nathan Study concluded that the statutory royalty should be expressed as six percent of the suggested retail list price of phonorecords, to ensure that the royalty payable maintains its purchasing power under inflationary pressure.[436] As stated in the Nathan report the royalty rate at the inception of the Copyright law was "at its ceiling rate of two cents per song thus came out to 24 cents per record * * * or six percent of the suggested retail list price."[437]

The Nathan Study strongly disapproves expressing the royalty as a flat cent rate, for such rate would quickly reduce to a mere fraction of its intended purchasing power.[438]

The Nathan Study recognizes that indexing a flat cent rate to changes in the cost of living would maintain some of the purchasing power of the intended adjustment, but regards the use of an index as less equitable than a rate expressed as a percentage of price: Under a cost-of-living adjustment, increases in the rate payable always lag behind actual changes in inflation, thus perpetuating a built-in inequity.

In contrast, it finds that a royalty expressed as a percentage of price ensures that the compensation of songwriters and music publishers keeps pace not only with the price of records but also with the gross revenues generated by record sales.[439]

RIAA

Cambridge Research Institute Study (CRI)

CRI submitted data on behalf of RIAA covering the U.S. recording industry financial and operating performance. The CRI Study complements data derived from CRI's prior financial survey data of the recording industry which extends as far back as the 1950's. The current CRI Study updates the financial information for the period from 1977 through 1979 and also obtains information on current industry operations.

CRI's sample included label companies, which release top albums in the fields of pop, rock, jazz, folk, and classical. The sample included some major vertically integrated manufacturers, as well as a few very small and very large companies. In addition, the sample included representatives of some of the distribution patterns that exist in the industry.

The questionnaire was distributed in the summer of 1979 to all 66 RIAA member companies of which 14 recording companies responded. Not all companies supplied data for all the years requested.[440]

The CRI "Estimated Financial Statistics for the U.S. Recording Industry (1974–1979)" was based on the RIAA total industry sales figures which are generated by RIAA's Market Research Committee. The committee is composed of major recording companies executives. CRI used the committee's figures as a foundation, to expand its sample results to produce industry-wide aggregate financial figures.

[421] Tr. 10/9/80, Strauss, p. 76.
[422] Nathan Study, pp. 1, 6.
[423] Nathan Study, p. 13.
[424] Ibid, p. 14.
[425] Ibid, p. 14.
[426] Ibid, p. 14.
[427] Ibid, p. 14.
[428] Ibid, Table 1.
[429] Nathan Study, p. 15.
[430] Ibid, Table 2.
[431] Ibid, Table 11.
[432] Ibid, Table 9.
[433] Ibid, Table 10.
[434] Ibid, p. 44.
[435] Nathian Study, pp. 40–41.
[436] Ibid, p. 45.
[437] Ibid, p. 10.
[438] Ibid, Table 12.
[439] Nathan Study, pp. 48–49.
[440] CRI Study, p. 5.

The CRI Study produced an estimate of industry-wide profits which is more heavily weighted with larger firms.

To assemble a financial picture of the U.S. recording industry, CRI used estimation techniques to account for certain data that were not reported by individual respondents. The sample generated by the CRI Study produced an estimate of industry-wide profits.

The study shows that in terms of pre-tax profits (and losses), 1979 was the worst year for the recording industry in recent history. The CRI Study included a consolidated industry-wide income statement which was shown in two formats—one as a breakdown of each component in total dollars and the other format had the same components and totals expressed as a percentage of net sales. These formats excluded license income from U.S. masters licensed abroad.[441] Both statement formats were subsequently connected because of tabulation error.[442]

The CRI Study contained data showing that for the years 1977–1979, the largest expense for the recording industry was production and manufacturing expenses (30.8%) and the second largest was artist and recording expenses (29.9%).[443]

CRI produced data on break-even points. It showed that more than 80% of most recordings fail to break even. CRI data on the profitability of artists' royalty accounts, showed that approximately 80% of the artists had unprofitable royalty accounts.

The CRI Financial and Operations Survey also included information on pricing of records; profile of recording sales; sales returns; and, personnel, artist, and singer/songwriters.

In addition to the Financial and Operations Survey, CRI conducted a survey of mechanical royalties on all tunes released by two respondent companies in 1978. The survey shows that the mechanical royalty rates are set at the statutory amount or a standard variation thereof for record club and budget/economy tunes.

Average Retail Prices Study

RIAA also submitted data reporting average retail selling prices of LP's, tapes, singles by type of distribution outlet for the period 1974–1979.

The retail price data in this study are based on information from a nationwide Consumer Panel maintained by an independent testing institute for CBS Records.

The Consumer Panel consists of approximately 7,150 individuals, representing a sample of the record and tape buying public in the United States. Record and tape purchases of Panel members are monitored on a daily basis and the results are projected to national levels.

Each year, the reports of the Panel members are consolidated to produce average retail prices for that year by configuration and type of outlet.[444] The Study shows that the suggested retail list price and also the actual selling price of LP's, tapes and singles has increased over the last six years. It showed that during the period 1974–1979, the average actual selling price of LP's increased from $4.05 to $5.79.

Album Content and Tune Length Study

RIAA submitted a Study of the top 150 albums listed in Billboard magazine's best-seller charts in order to obtain information about the composition and tune lengths of record albums.[445] For purposes of the Study, RIAA selected at random the *Billboard* charts in the issues dated March 31, 1979 and January 19, 1980.[446] The Study shows that the average number of songs per disk has continued to decline, from twelve tunes in 1965 to ten tunes in 1973, to nine tunes in 1979[447] and that the majority of mechanical royalties on these 150 albums were paid at the statutory rate.[448]

The Study further shows that increased record sales volume has not compensated copyright owners for the increased length of their songs. Most recorded songs (77%) have an average playing time of less than five minutes.[449]

Legal Issues

Petition of the Music Arrangers

The American Society of Music Arrangers submitted to the Tribunal a petition on January 31, 1980 requesting a hearing on a proposal to require record companies to provide compensation to arrangers "in the form of a *royalty* to the arranger for every record sold, subject to the usual industry allowances for returns, promotion, etc."[450] The Tribunal invited the parties to this proceeding to comment on this petition. Comments were submitted by AGAC, NMPA, and RIAA.[451] Each of these comments asserted that consideration of the petition would be beyond the jurisdiction of the Tribunal. After considering these comments and reply comments of ASMA,[452] the Tribunal rejected the petition.[453] The Tribunal stated:

> The Tribunal interprets 17 USC 115 as providing that the compulsory license royalty is to be paid only to the copyright owner of the original musical composition. Congress did not grant the Tribunal the statutory authority to create a new compulsory license. Rather the Congress, 17 USC 801(b)(1), expressly limited the Tribunal to the adjustment of reasonable copyright royalty rates as provided in Section 115.

The Mechanical Royalty Percentage Formulas Issue

The Tribunal on March 25, 1980 heard oral argument by the parties on a motion of RIAA requesting the Tribunal to issue an order declaring that any adjustment of the mechanical royalty rate to provide for the fixing of the royalty rate as a percentage of the price of the phonorecord would be beyond the jurisdiction of the Tribunal. We issued an order on March 27, 1980 stating in part:

> The Tribunal has not found the arguments in support of the motion to be persuasive and the motion is therefore denied. The Tribunal will receive and consider evidence on proposed "mechanical royalty" percentage formulas.

The Tribunal has not in this proceeding adopted a royalty rate fixed as a percentage of the price of the phonorecord, therefore, it is unnecessary for the Tribunal now to further discuss this issue. We observe that our determination to retain a flat rate indexed to increases in record prices is not subject to RIAA's jurisdictional objections, and indeed, was urged upon us by RIAA.

The Issue of Burden of Proof

Our jurisdiction to provide for an adjustment of the mechanical royalty rate is derived from the same statutory authorization as our jurisdiction to adjust the royalty rate paid by operators of coin-operated phonorecord players (jukeboxes).[454] We have analyzed the

[441] CRI Study, Exhibits 1, 2, pp. 4–9.

[442] Fitzpatrick letter, July 17, 1980.

[443] CRI Study, pp. 4–10.

[444] Ibid, Exhibits 1, 2, 3.

[445] Study, Appendix C.

[446] Ibid, Appendix A, B.

[447] Album Content and Tune Length Study, p. 3, line item 5.

[448] Study, p. 5.

[449] Ibid, p. 4, line item 12.

[450] Letter of Eddy L. Manson, President, American Society of Music Arrangers, Jan. 31, 1980.

[451] Letter of Alvin Deutsch, counsel for AGAC, Feb. 26, 1980; letter of Morris B. Abram, counsel for NMPA, Feb. 29, 1980; memorandum of RIAA, March 3, 1980.

[452] Reply Memorandum of American Society of Music Arrangers In Opposition To Memoranda Filed By the Recording Industry Association of America, the National Music Publisher's Association, and the American Guild of Authors and Composers, March 26, 1980.

[453] Letter of Chairman Mary Lou Burg to Harris E. Tulchin, counsel, ASMA, April 7, 1980.

[454] 17 USC 801(b).

issue of burden of proof in the opinion accompanying our final determination in the jukebox proceeding.[455]

17 USC 804(a)(1) mandated the institution of this proceeding. No party to this proceeding was required to sustain any general or specific burden of proof. Since it was obviously not possible for the Tribunal to hear simultaneous presentations of the direct cases of the parties, the Tribunal determined an order of presentation. In doing so, the Tribunal rejected any suggestion that the order of presentation implied any relationship to a burden of proof.

Likewise, the statutory language and the legislative history of the copyright revision bill excludes any presumptions concerning the "reasonableness" of the existing rate. Nor is the existing rate to be accorded precedential weight in the Tribunal's proceedings. The task of the Tribunal in this proceeding was to determine a "reasonable" royalty rate on the basis of the record before us and calculated "to achieve" the statutory objectives. Our findings and conclusions on these matters are set forth in considerable detail elsewhere in this document.

"Bargaining Room" Theory

It has been suggested during this proceeding that the Tribunal should adopt a royalty rate at the high level of a range within which there would be marketplace bargaining. RIAA has maintained that such action by the Tribunal would be contrary to law, as well as contrary to prevailing industry practice.[456]

The statute requires the Tribunal to establish a "reasonable" royalty rate calculated to achieve the statutory objectives. We adopt the view of RIAA that:

> *A rate that is deliberately fixed above the level that the market can bear—so that a lower rate can be negotiated in the marketplace—cannot be 'reasonable'.* Such a rate would yield *more* than the 'fair return' to copyright owners mandated by the statute.[457]

In adjusting the mechanical rate, we excluded any consideration of the "bargaining room" theory.

The AGAC Motion To Strike

AGAC on July 15, 1980 filed a motion moving the Tribunal to strike from the record of this proceeding the economic study of the recording industry prepared by the Cambridge Research Institute, the reply comments of April 21, 1980 prepared by the Institute for RIAA, and the May 5, 1980 statement of David B. Kiser. AGAC subsequently expanded the basis for the motion because of the lack of access to certain Touche Ross market research information.

AGAC maintained that the refusal of RIAA to submit requested input data, including individual questionnaire responses, "violates the rules of the Tribunal (37 CFR 301.51), denies other parties the ability to conduct such cross examination as is necessary to disclose the facts fully and truthfully, and deprives the Tribunal of the ability to determine the accuracy, reliability, and truthfulness of the statements made in the CRI documents."[458]

Section 301.51(h) of the Tribunal's Rules of Procedure states in part that:

> If requested, tabulations of input data shall be made available to the Tribunal.

AGAC has argued that it is impossible to establish whether statements contained in the Cambridge documents are reliable or accurate simply by questioning the author of the document. AGAC mentioned that it "is well settled that such studies should not be admitted in administrative proceedings unless the underlying questionnaires are made available."[459]

The Tribunal on October 14, 1980 denied the motion of AGAC.[460] We were not persuaded that the granting of the motion was required by the Administrative Procedure Act, the case law, the Tribunal's Rules of Procedure or procedural fairness. The inability or failure of RIAA to disclose "confidential" input information in our view goes to the weight we should accord their evidence, not to its admissibility. This is particularly relevant to our proceedings since the Congress has not accorded the Tribunal subpoena power.

Determination of Royalty Rate

Preliminary Statement

The Tribunal held 46 days of hearings on the adjustment of the mechanical royalty rate. On the basis of the record in this proceeding, the Tribunal determined that an adjustment was appropriate.

Congressional Purpose

When Congress enacted the Copyright Revision Act of 1976 it specifically acknowledged the unfairness of the existing mechanical royalty rate: "(Although) a compulsory licensing system is still warranted as a condition for the rights of reproducing and distributing phonorecords of copyrighted music * * * the present system is unfair and unnecessarily burdensome on copyright owners, and * * * the statutory rate is too low."[461]

Congress mandated that the Tribunal commence rate adjustment proceedings on January 1, 1980 and publish its determination of a reasonable rate by year's end.[462] From review of the legislative history of the Act we find that Congress delegated plenary authority to this Tribunal to effect a reasonable rate payable under a compulsory license, and calculated to achieve the statutory objectives.

Congress increased the statutory rate to 2¾ cents per musical work made and distributed, or ½ of one cent per minute of playing time, or fraction thereof, effective January 1, 1978.

We find that the legislative history of the Act is clear that Congress did not find that the existing rate was fair as of 1976 or any other date. We further find that Congress did not intend the rate to be a precedent for the Tribunal nor to bind the Tribunal in any way.

The 1975 Senate Judiciary Committee Report on the copyright law revision stated:

> The Committee does not intend that the rates in this legislation shall be regarded as precedents in future proceedings of the Tribunal.[463]

The House took the opposite view. The last sentence of section 801(b)(1) of the House amendment of the bill stated that the Tribunal's determinations adjusting mechanical royalty rates "shall be based upon relevant factors occurring subsequent to the date of the enactment of this Act."[464]

In conference, the House abandoned its position and the Senate view prevailed. The language in section 801(b)(1) restricting the Tribunal's consideration to events after 1976 was deleted, and the present criteria were inserted. The conference report stated:

> The House receded on its language appearing in the last sentence of section 801(b)(1), and the conference agreed to a substitute for the language.[465]

From our review of the legislative history of the Act we conclude that Congress resolved the split between the House and the Senate to favor the Senate view that the rate of 2¾ cents was not a precedent for the Tribunal.

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[455] 46 FR 887, Jan. 5, 1981.

[456] RIAA Proposed Findings of Fact and Conclusions of Law, pp. 190–208.

[457] Ibid, p. 191.

[458] AGAC Motion To Strike, p. 2.

[459] Ibid, p. 5.

[460] Tr. Oct. 14, 1980, pp. 270–271.

[461] H.R. Rep. No. 94–1476, 94th Cong., 2d Sess. 107 (1976).

[462] 17 U.S.C. § 804.

[463] S. Rep. No. 94–473, 94th Cong., 1st Sess. p. 155 (1975).

[464] H.R. Rep. No. 94–1476, p. 41 (1976).

[465] H.R. Conf. Rep. No. 94–1733, p. 82 (1976).

and that the Tribunal was not to limit its consideration to events after enactment of the Act. It is our opinion and we therefore find, that the legislative history of the Act shows that Congress delegated to the Tribunal sufficient authority to effect a *de novo* adjustment of the statutory rate, uninhibited by prior Congressional action, consistent with Section 801 of the Act.

Statutory Objectives

Our review of the legislative history of the Act indicates that the statutory criteria in section 801(b) originated with the suggestion of Professor Ernest Gellhorn and the Register of Copyrights that more definite criteria than "reasonableness" should be provided, in order to avoid a constitutional challenge to the Tribunal.[466] Subsequently, the House Judiciary Committee included criteria in its report.[467] The Conference Committee then included a revised version of the criteria in section 801.[468]

We therefore conclude that Congress drafted the criteria in the broadest terms that it could, consistent with its intent to prevent a challenge to the constitutionality of the Tribunal.

We also conclude, consistent with its Congressional mandate, that this Tribunal's adjustment must set a "reasonable" mechanical royalty rate designed to achieve four objectives, set forth in Section 801 of the Act:

(A) To maximize the availability of creative works to the public;

(B) To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;

(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication;

(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.[469]

Based on our review of the entire record in this proceeding and the legislative history of the Act, we have determined that a reasonable adjustment of the statutory rate must look to the application and operation of the regulatory system of which it is an integral part. We conclude from the record in this proceeding and the legislative history of the Act, that the regulatory system was designed to remedy a perceived market deficiency, namely, attempts at monopolization by copyright users.[470] We therefore find that the application of Section 115 is limited by the market deficiency which justifies its existence.

It is our opinion that the term reasonable in the statute is of dominating importance in reaching a final determination in this proceeding. Further we find by the express terms of Section 115 of the Act, that the compulsory license system is applicable only in the absence of a negotiated license.[471]

We conclude that the Tribunal's authority to adjust the statutory rate payable under the compulsory license system is only limited by the fact that Section 115 of the Act operates on an individual and not an industry-wide basis. The legislative history of the Act makes it clear that Section 115 of the Act contemplates the compulsory use of an individual song, by an individual record manufacturer, after voluntary negotiation with an individual copyright owner has failed. Further that in exchange for that compulsory use, the Act contemplates a per-unit rate of compensation payable to the copyright owner on an individual basis by a copyright user.

Based on the entire record of this proceeding and the legislative history of the Act, we are of the opinion that the market then determines the total amount of royalties paid to each copyright owner for all uses. We thus conclude that under Section 115, the statutory royalty is designed to provide a reasonable rate of return on an individual per-use basis.

Further, consistent with the anti-monopoly purpose of the compulsory license system, a reasonable adjustment of the statutory rate should work to ensure the full play of market forces, while affording individual copyright owners a reasonable rate of return for their creative works.

To Maximize the Availability of Works

Section 801(b)(1)(A) of the Act mandates that the statutory rate payable under the compulsory license system be calculated "to maximize the availability of creatives works to the public."

Under Section 115 of the Act, incorporated by reference in Section 801, the term "creative work" applies to the copyrighted non-dramatic musical composition subject to compulsory use. In our opinion the adjustment of the statutory rate payable under Section 115 of the Act is intended to encourage the creation and dissemination of musical compositions. This encouragement we find takes the form of an economic incentive and the prospect of pecuniary reward—royalties payable at a reasonable rate of return. The evidence shows that under the statutory objectives governing a reasonable adjustment of the statutory rate, the Tribunal must afford songwriters a financial and not merely a psychic reward for their creative efforts.[472]

RIAA argues that if the Tribunal were to grant a rate increase, recording companies would have to take serious steps to deal with these new costs, like reducing the number of releases, thereby reducing the quantity of creative works available to the public.[473] They also argued that a rate increase might lead record companies to issue releases only by artists with a proven record of "home-run" albums, thereby reducing the variety of creative works available to the public.[474] The Tribunal was not persuaded by these arguments.

The evidence in this proceeding shows that 2¾ cent statutory ceiling does not maximize the availability of commercially viable musical compositions to the public.[475] It further shows that the 2¾ cent rate does not permit songwriters to maximize their creative outputs. We find nothing in this record which would justify any reasonable concern that the rate we have adopted will deprive the public of access to music.

Fair Return to the Copyright Owner and Fair Income for the Copyright User

Section 801(b)(1)(B) of the Act mandates that the statutory rate payable under the compulsory license system be calculated "to afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions."

We find that the *copyright owner's* right to receive a *fair rate of return* for the compulsory use of his song derives from Congress' decision to afford commercial protection to the author of a creative work.[476] The evidence shows that in most instances, the rate of return afforded the copyright owner is determined on the free market. It further shows that in the case of the composer of non-dramatic musical composition, however, the rate of return from recordings is fixed under Section 115 of

[466] 2nd Supp. Rep. of the Register of Copyrights (draft), Ch. XV, pp. 29, 31 (1975); 1975 Hearings, Part 3, pp. 1914, 1921–25.

[467] H.R. Rep. 94–1476, p. 174 (1976).

[468] H.R. Conf. Rep. No. 94–1733, p. 82 (1976).

[469] 17 U.S.C. §801(b)(1)(A)–(D).

[470] Knight Report, June 30, 1969, pp. 5–8.

[471] 17 U.S.C. § 115(b)(2).

[472] Tr. 7/31, p. 107.

[473] RIAA Findings and Conclusions, p. 181.

[474] Ibid, p. 182.

[475] Tr. 7/8, pp. 44–46.

[476] 17 U.S.C. § 102.

the Act. The statutory rate thus regulates the price of music.

The evidence shows that the copyright user's right to fair income under the compulsory license system derives from Congress' decision to permit entry into the music market by a potential copyright user.[477] Accordingly, the statutory rate—triggered only after voluntary negotiations have failed—should work to permit any record companies to enter the market at will. Thus, Section 115 of the Act fixes a statutory rate as a royalty of reasonable resort.[478]

In our view, taking the entire record of this proceeding into consideration, including the available economic data and the relevant benchmarks of fairness, demonstrates that the statutory royalty payable under the compulsory license system should be adjusted upward to a rate of four cents, with an annual adjustment. The evidence shows that the current rate does not afford songwriters and music publishers, as copyright owners, a fair return for their creative work.[479] The evidence also shows that adjustment of the mechanical royalty rate to four cents with annual adjustment will permit entry into the music market by a potential copyright user and will afford record companies the opportunity to earn a fair income.[480]

In our view the evidence did not demonstrate that a rate increase would prevent entry by record companies into the music market or that such an adjustment would fail to afford copyright users a fair income. We find the proponderance of the evidence was to the contrary. The evidence presented in our opinion confirms that the record industry flourished during the past decade. The evidence shows that during the past decade, the record industry developed into a four billion dollar enterprise, and sustained a high level of profitability, in every year but 1979.[481]

It is our opinion, and we so find, that the evidence has failed to prove that a four cent rate will impede the industry's future growth or fail to afford its members an opportunity to earn a fair income.

Relative Roles of Owners and Users

The evidence shows that upward adjustment of the statutory rate to four cents with annual adjustment will best reflect the relative roles of the copyright owner and the copyright user in the product made available to the public.

The evidence shows that the songwriter is the provider of an essential input to the phonorecord: The song itself. The music publisher collaborates with the songwriter in the creative process.[482] Sometimes the music publisher's role involves matching up a composer with a suitable lyricist,[483] and sometimes matching up the singer and the song.[484] The evidence shows that when independent producers are used, the role of the record company in the creative process is reduced.[485]

The record reflects that the role of music publishers and record companies is somewhat different is dealing with singer-songwriters—recording artists who record their own songs. We note that in that situation, sometimes it is the music publisher who finds and develops the singer-songwriter,[486] and sometimes it is the record company. We find, however, that singer-songwriters are not subject to the mechanical royalty rate for the compulsory license, and instead negotiate total packages for their copyright performance package.

We determined from the evidence in this record, that on recordings which may be subject to the compulsory license, (i.e. not including singer-songwriter's recordings of their own songs) the creative contributions are made sometimes by the songwriter and music publisher, the copyright owners, as well as by the independent producer, and sometimes by the record company, the copyright user.

The evidence also shows that record companies also make a vital contribution to the production of a sound recording. They are engaged frequently in finding and signing the right talent; deciding on the material; directing the recording sessions; and in the development of artists' careers. In addition record companies' personnel are involved in packaging, graphics, marketing and promotion.

The evidence shows that record companies have substantial risks and cost. The evidence also shows that they have often succeeded in minimizing their risks and costs by transferring them to others. The evidence also shows that while the record company advances the money for recording costs, if the album achieves even moderate success, these recording costs are paid back to the record company, by the recording artist, before the artist receives any actual royalties. The evidence also shows that once a recording artist has had one successful record, the record company has limited risk on subsequent records, because record company contracts with recording artist typically provide for cross-collateralization of recording artist royalties between different records.[487] The evidence shows that record companies can cross-collateralize mechanical royalties with recording artist royalties—and charge recording costs against both types of royalties.

The evidence shows that at the manufacturing and distribution levels, record companies can minimize their risks through distribution systems which allow them to manufacture a very small number of records of a new release, before receiving indication of whether the release will have commercial success.[488]

It is our opinion and we so find that although the amount of money advanced by record companies as part of the recording process is significant, record companies have often succeeded in transferring the risk and cost of record production.

The evidence shows that new markets for creative expression and media for their communication may be opened through technological innovation, and through development of new types of music.

The evidence in the record shows that the development of different types of music is related to the geograpahic distribution of songwriters and music publishers, who are dispersed across the United States—unlike record companies which tend to concentrate in Los Angeles and New York City. A witness testified:

> NMPA COUNSEL: So it's, in fact, important to have independent music publishers located across the nation; isn't that right?
>
> THE WITNESS: Oh, I think so and they are, thank goodness. I think that we see music now coming from all over America. You['ve] got * * * publishers in various sections of the country. (You've] got the music industry located in Miami. It's in Memphis. It's in Muscle Shoals, Alabama. It's in Birmingham, Alabama. It's in New Orleans, Louisiana. I'm talking South because I'm for the South. But I know it's in San Francisco, California; it's in Philadelphia, Pennsylvania. It's all over this country.[489]

The record reflects that the copyright owners rarely make any significant contributions in the way of technological innovation.

The record also reflects that record companies make contributions to the

[477] Tr. 6/18, p. 21.
[478] Tr. 5/14, pp. 36–37.
[479] Nathan Study, pp. 45–50; Tr. 5/7, p. 108.
[480] Nathan Study, pp. 7–23.
[481] Ibid. p. 21.
[482] Tr. 5/8, p. 50.
[483] Tr. 6/12, pp. 89–115, 139–152, 155–158.
[484] Tr. 6/26, pp. 118–119; Tr. 5/8, p. 63.
[485] Tr. 5/8, pp. 49–77.
[486] Ibid. pp. 32–33.
[487] CBS Artist Contract, A–D, Tr. 7/22, p. 6.
[488] Tr. 7/1, pp. 72–73.
[489] Tr. 6/2, pp. 114–115.

opening of new markets through record clubs, mail order sales and television advertising campaigns. The record also reflects that the record companies make unique and distinctive contribution concerning technology, cost, risk and creativity.

We determined, however, that upward adjustment of the mechanical royalty rate to four cents, would best reflect, based on the evidence in the entire record, the relative contribution of copyright owners and copyright users, with respect to each of the criteria set forth in the Act: "creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication."

Disruption of the Industries

We determined that upward adjustments of the statutory rate payable under Section 115 of the Act to four cents with annual adjustment, will not have any disruptive impact on the structure of the industries involved or on generally prevailing industry practices.

We reject the contention that any immediate increase in the mechanical royalty payable to copyright owners, would be disruptive on the record industry. The record in this proceeding clearly shows that an increase in the compulsory license is necessary to afford copyright owners a fair return. We reject the argument that it would be difficult to pay that rate.[490] We find the record void of any probative evidence to support that argument. On the basis of the record in this proceeding, we find that the record industry has been able to absorb other cost increases without any disruptive impact on the structure of the industries involved or on generally prevailing industry practices.

The record reflects that the record industry's ability to absorb other cost increases is demonstrated by comparison of record company costs in 1965 with record company costs in 1980. In 1965, evidence was submitted to Congress which stated that on a record listed at $3.98, the record companies' total cost was $1.26, of which 24 cents was attributable to the mechanical royalty rate (two cents x 12 songs).[491] In 1980, evidence was submitted to this Tribunal that on a record listed at $7.98, the record companies' total cost was $2.79, of which 27.5 cents was attributable to the mechanical royalty rate (2¾ cents x 10 songs).[492] Thus, between 1965 and 1980, all other record company costs went up from $1.02 to $2.51—an increase of 146 percent. At the same time, the mechanical royalty payments went up from 24 cents to 27.5 cents, an increase of 14.5 percent. The evidence shows that the rate of increase of all other record company costs during this fifteen-year period is ten times as great as the increase in the mechanical royalty rate.[493]

We determined that an increase in the mechanical royalty rate to four cents would produce a 40 cent royalty on a record listed at $7.98. That would raise the mechanical royalty cost from 24 cents in 1965 to 40 cents in 1981—a 67 percent increase over fifteen years, during which time all other costs will have risen 147 percent. We note that if the record industry chose to absorb this 12.5 cent increase in mechanical royalties by reducing its profit margin from $1.20 to 107.5 cents, the record company profit margin would still be 144 percent higher today than in 1965. This is 77 percent higher than the increase in mechanical royalties which would result from adjusting the rate to four cents.

We determined that the amount of the mechanical royalty increase to be absorbed or passed on by the record companies would not be disruptive of the industry. The evidence clearly shows that it would be substantially less than other cost increases which the record industry has been able to absorb, or pass on.

Erosion of the Statutory Rate

The evidence in this proceeding shows that the statutory rate has been seriously eroded by inflation, and does not afford copyright owners a reasonable return for their creative efforts. The evidence reflects that despite the astounding growth in market demand for music in the period 1974 to date, the return afforded copyright owners, as a proportion of record sales, has steadily declined.

The evidence shows that during the period 1963–1974, record company gross revenues increased substantially.[494] The evidence also shows that in the period 1963 through 1974, sales of recorded music increased from $361 million to $1,172 million or 202 percent.[495]

The evidence also shows that in the period 1964 through 1974, aggregate royalties actually paid to copyright owners declined from an average of about 11.2 percent of record sales at wholesale to about 7.2 percent, thus relegating copyright owners to a substantially weakened economic position vis-a-vis the users of their creative works.[496]

The evidence further shows that in the period 1964 through 1974, royalties paid by record companies to recording artists, negotiated on the free market, far outpaced mechanical royalties, rising to an average of 16.8 percent of record sales at wholesale.[497]

The record reflects that the available evidence shows that between 1973 and 1979, the record industry experienced growth, with record sales almost doubling, from $2 billion to nearly $4 billion at retail list price.[498]

The evidence shows that the increase in record sales volume has resulted in a two percent increase per annum in the volume of copyrighted songs sold to the public. Further aggregate mechanical royalties paid have not kept pace with record sales.[499]

The evidence in this record shows that all parties agree that the purchasing power of the statutory rate has seriously eroded under inflationary pressure. This erosion has become more severe since the 1950's, as inflation began to reach new levels.[500] The evidence further shows that during the twelve-year period of copyright revision, the Consumer Price Index rose by 76 percent, thus reducing the purchasing power of the two cent flat fee to little more than half its value in 1965 dollars.[501] The record reflects that to restore the purchasing power which two cents had in 1965, when the Congressional hearings began, it would be necessary to set the mechanical royalty rate at more than five cents today.[502]

The evidence shows that the current rate has suffered a similar erosion. Congress enacted the 2¾ cent interim rate on the basis of evidence describing conditions through the year 1974. In our opinion, and we so find, that even if the Tribunal were to ignore Congress' instruction that the existing rate have no precedential weight in the current proceeding, the evidence in this proceeding demands an immediate upward adjustment of the royalty to not less than four cents merely to restore the 2¾ cents existing rate today to its effective purchasing power in 1974 dollars.

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[490] RIAA Summary of Proposed Findings of Fact and Conclusions, p. 28.

[491] 1965 CRI Report.

[492] NMPA Exh. 54; RIAA Exh. BB.

[493] NMPA Findings and Conclusions, pp. 167–168.

[494] Nathan Study, p. 13

[495] Ibid, p. 14.

[496] Ibid.

[497] Ibid.

[498] Ibid, p. 16.

[499] Ibid, p. 44.

[500] NMPA Chart A; Rinfret Study, Vol. 1, p. 22; Tr. 7/23, p. 90.

[501] NMPA, Table 6.

[502] NMPA Post-Hearing Brief, pp. 22–23.

Copyright Users

We note that the record industry claims that an increase in the statutory mechanical rates will bankrupt great record companies, will force others to drastically cut their operations, and will force increases of 300–700 million dollars to consumers. We reject all of these claims as we find no probative evidence in the record to support them.

The evidence in this record is clear that mechanical royalties are a small part of record industry costs; that when the mechanical royalty rate increased in 1978, the record industry did not reduce its other expenses, did not reduce the scope of its operations, and did not increase prices because of the change in mechanical royalties; and that the record industry has increased prices whenever it felt the market would bear it, even though mechanical royalties were frozen. The evidence shows that the impact of mechanical royalties on both the industry and consumers is trivial, compared to the effects of expenditures such as artists' royalties, promotional expenses, and general and administrative expenses, which are within the industry's control.

We have previously discussed our conclusions that the evidence indicates that any effect of changes in the mechanical rate are insignificant compared to the effects of costs within the industry's control, such as artists' royalties or selling, general and administrative expenses, or compared to the effects of general economic conditions. This is apparent from comparison of mechanical royalties to other record industry costs, from analysis of changes in various record industry costs, and from the events of 1978.

It is our opinion and we so find that the evidence also demonstrates that the adverse consequences of the 1979–80 recession were temporary and most of them have already been overcome.

The record shows that the record industry has introduced two kinds of evidence concerning its economic condition. The first was pessimistic testimony provided by representatives of the major companies. The evidence shows, however, that the testimony was contradicted by equally optimistic statements issued by the same companies (and in one instance by the same individual) to other audiences, such as stockholders, securities analysts and trade groups.[503] We note that it is not unknown for corporations to plead poverty to regulatory agencies while simultaneously making optimistic profit projections to their stockholders.

The second form of evidence introduced by the record industry, the CRI Economic Study, was subject to such deficiences that it does not provide full data concerning the revenues, return on investment and the level of profit of the record industry. The record reflects that CRI's principal document was its revised Exhibit 1, attached to Mr. James Fitzpatrick's letter of July 7, 1980.

In our opinion the first major omission and uncertainty in this document is its starting figure for industry net sales, which is simply 50% of the RIAA estimate. The evidence shows that the estimate is produced by the RIAA Marketing Committee, which consists of a dozen representatives of large record companies. The evidence shows that they take an aggregate sales figure for the major record companies reported to them by Touche Ross, and adjust it by adding a guess at the sales of all other record companies.[504] Without knowing either the figures reported by Touche Ross or the amount of the RIAA Marketing Committee "adjustment", one cannot know whether the estimates are based on Touche Ross' figures, or primarily reflect the "horseback guesses" of the marketing committee.

The record reflects that notwithstanding a request therefor, no evidence was submitted regarding the Touche Ross reports which purportedly underlay the net sales estimates reported in CRI Exhibit 1 for the years 1974–79.[505] The evidence shows that there can be nothing confidential about the Touche Ross figures. They are aggregate figures, not individual company figures;[506] they have been shown to representatives of the major competitors in the industry, who serve on the RIAA Marketing Committee.

The testimony of the record industry is consistent that their current practice is to request licenses from publishers only *after* an album has been recorded.[507] The evidence shows that there is nothing in the process of recording albums that makes it impossible to decide upon a group of compositions in advance of recording, and to bargain with copyright owners for the most favorable rates on those compositions.

The evidence shows that at the present time, CBS artists' contracts require the artist to inform CBS of the compositions to be recorded several weeks in advance of recording.[508] One witness testified that compositions are selected before arrangements and instrumentation are chosen, before a studio is selected, before musicians are selected, and before recording begins.[509]

The evidence in the record shows that copyright users rarely invoke Section 115 of the Act. Further they exploit the statutory rate payable under a compulsory license to keep their mechanical royalty costs as low as possible, fixing the 2¾ cent royalty as a ceiling in all negotiations with copyright owners, even for first releases.[510]

The record reflects that RIAA initially proposed that the Tribunal maintain the statutory rate at its current level, urging that increases in record sales, with consequent increases in total royalties payable to copyright owners as a group, compensate for the eroding effects of inflation.[511] The Tribunal finds the record is void of any useful evidence to support that position.

The evidence shows that a copyright user who invokes the compulsory license for phonorecords pays the mechanical royalty rate directly to the individual copyright owner. What mechanical royalty fees are paid by the same copyright users, or other copyright users, to other copyright owner obviously has no effect on whether the individual copyright owner is receiving a fair return for the individual uses of his songs.

We conclude that it makes no difference to the songwriter, whose song is subject to the compulsory license for use on an album which sells 50,000 copies, that songwriters of best-selling albums receive more royalties, in the aggregate. In our view the fair return required by the statute is not to songwriters as a group but as individuals.

The evidence shows that from the standpoint of investment, risk, and technological innovation the record industry activities do often benefit the copyright owners. All these factors were taken into consideration in determining that the rate should be four cents and not higher.

The Tribunal concluded that while it was valuable for us to be aware of the financial status of both the recording industry and the copyright owners, the financial information received provided no clear guidance as to how to balance fair return as against fair income.

[503] Post-Hearing Brief of AGAC, p. 58.

[504] Tr. 7/24, pp. 36–42; Tr. 7/29, pp. 9–12.

[505] Tr. 7/25, pp. 42–43.

[506] Ibid.

[507] Ibid.

[508] Tr. 7/30, pp. 106–109; CBS Artist Contracts, A–D, Tr. 7/22, p. 6.

[509] Tr. 6/26, pp. 31, 34; RIAA Exh. G.

[510] Tr. 6/18, pp. 22–23, 145; Tr. 6/19, pp. 78, 88; Tr. 6/25, p. 15.

[511] Tr. 7/30, p. 122.

The Tribunal also concluded that while the rate must be viewed as payment on the individual basis and in principle royalty payments should not be considered in the aggregate, the size of the American market and the volume of records sold do constitute an advantage to the copyright owner. Therefore, although not on a one-for-one basis, volume can be taken into consideration when setting the rate, and for this reason the rate was not set as high as it is in Europe.

Copyright Owners

The record of this proceeding contains detailed analyses of the legislative history of Section 115. Our review of this history persuades us that Congress enacted the compulsory license as part of the Copyright Act of 1909 because it feared that the Aeolian Piano Roll Company would monopolize the music industry by entering into exclusive contracts with copyright owners. Accordingly, the Copyright Act provided that once a song was recorded, any record company—as a matter of right—could obtain a license at a statutory rate and record its own rendition of the musical composition.

As originally enacted, the compulsory license was thus intended to govern *the relationship among copyright users*—and not the relationship *between* copyright users and copyright owners. The compulsory license was intended to prevent formation of a "music monopoly" by guaranteeing to all mechanical producers full access to copyright music.

The evidence shows that the recorded music industry has experienced significant growth in the five-year period since Congress concluded its hearings on the compulsory license. It further shows that during that period, however, songwriters and music publishers, the copyright owners, have been limited to a mechanical royalty rate worth only a fraction of its former purchasing power, and yielding aggregate royalties equal to a decreasing percentage of record sales at the suggested retail list price. Further, that copyright owners have thus been relegated to a substantially weakened economic position.

The record reflects that between 1973 and 1979, sales of recorded music in the Untied States almost doubled, from $2 billion to nearly $4 billion. We note that sales growth was especially large in 1977, with a spectacular rise of 28 percent. Further, that in 1978, the industry enjoyed another huge growth increase—18 percent.

In our opinion, based on the evidence in this proceeding, the fortunes of the record companies, the copyright users, have been enhanced in the last decade. The evidence shows that at the same time, the fortunes of songwriters and music publishers, the copyright owners—subject to a price-fixed mechanical royalty in a period of great inflation—have dwindled. We find that:

- The value of the fixed rate mechanical royalty has decreased under inflationary pressure. The 2¾ cent royalty enacted by Congress in 1976 is now worth only two cents in 1976 dollars. Thus, *the entire current increase has already been eroded by inflation.*
- The 2¾ cent ceiling rate is not paid to copyright owners across the-board.
- The 2¾ cent mechanical royalty, as a rate of compensation, has not kept pace with the afforded performing artists, musicians, arrangers, and industrial workers.
- The 2¾ cent mechanical royalty rate is far less than comparable rates in England, Australia, Japan and Western Europe.
- Mechanical royalties paid in the period 1974–79 did not keep pace with record company gross revenues.[512]

The evidence shows that in order to purchase today the same amount of goods which could have been purchased in 1909 for two cents, the copyright owner now needs 17.3 cents. The songwriter must have six songs recorded—if he is paid the full statutory rate of 2¾ cents—to earn the same purchasing power per song per record that Congress afforded his predecessors in 1909.[513]

We note that nothing in the statute compels copyright owners to give any discounts to record companies. Nevertheless, the evidence shows that the copyright user in the past has successfully bargained for discounts from the statutory rate. The evidence shows that a majority of licenses are today issued at the statutory ceiling. The record reflects that pressures on copyright owners arising from the rampant inflation in the economy and the realization that their levels have fallen relative to those of other participants in the music industry, have made copyright owners more insistent on receiving ceiling and near-ceiling mechanical royalty rates for their musical compositions.

The Tribunal concurs with RIAA, that the NMPA Survey is not a reliable indicator of the financial condition or profitability of the music publishing industry. The survey may not include all income sources and the results may be distorted because NMPA may have aggregated noncomparable data.[514]

The record reflects that each exhibit of the study constitutes a separate study. Because each of the respondents did not fill out the entire questionnaire, there are inconsistencies and discrepancies from exhibit to exhibit. In addition, the number of total respondents to each exhibit differs;[515] the identities of the respondents differ from exhibit to exhibit;[516] and it is not possible to trace the financial statements from one exhibit to another for a single group of companies.[517]

As discussed above, we conclude that while it was valuable for the Tribunal to be aware of the financial status of copyright owners and users, the information we did receive provided us with no clear guidance as to how to balance fair return as against fair income.

International Comparison

The evidence shows that mechanical royalties are paid at a higher rate abroad than in the United States. Further, that mechanical royalties per album in most European countries and Japan are approximately double the royalties paid in the U.S.[518] The Nathan Study found no economic or policy justification for this disparity. Moreover, in all countries (other than Canada and the Soviet Union), the royalty payable is expressed as a percentage of price, to ensure that the statutory or negotiated rate maintains its purchasing power under inflationary pressure.[519]

We find that the foreign experience *is* relevant—because it provides one measure of whether copyright owners in the United States are being afforded a fair return.

The record reflects that the foreign comparison is relevant for a number of other reasons. First, rights of mechanical reproduction for sound recordings are licenses through most of the world as they are in the U.S., with copyright owners granting phonorecords nonexclusive rights to exploit copyright works in return for compensation in the form of royalties.[520] Second, large record producers are predominant in Western Europe and other parts of the world, as in the United States.[521] Third, music publishers play a similar role abroad as in the United States—as "the one hundred percent associate of the writer.

[512] Nathan Study, p. 27.
[513] Ibid. p. 28.
[514] Tr. 10/19. pp. 36–37, 95–96, 117–118, 171–173.
[515] Ibid. pp. 122b–123a.
[516] Ibid. pp. 124–125.
[517] Ibid. pp. 123a–124.
[518] NMPA, Table 20.
[519] Nathan Study, pp. 40–41.
[520] Tr. 6/3, pp. 13–14.
[521] RIAA Exhibit, 1, 2.

He is the one that gets an assignment from the writer * * * and * * * performs the duty of exploiting the work by all means and not only nationally but internationally." [522] Fourth, both here and abroad, the recorded music industry is dependent upon copyright owners for an essential input. The evidence in this proceeding shows that despite these substantial similarities, the market position of the copyright owner in the United States is much weaker than his colleagues abroad.

The evidence also shows that the actual royalty payable to copyright owners whose songs are used in each of the BIEM member nations provides a benchmark against which to judge the 2¾ cent rate—equivalent to a royalty of 27⅓ cents per L.P. assuming ten songs on a disc. The evidence was clear that against that benchmark, American copyright owners do not receive a fair return for the use of their creative efforts in their native land.[523]

In reaching our determination in this proceeding, we found that an increase in the rate is justified in order to make the price paid for a tune in the United States comparable with what is paid elsewhere. There are differences between the markets in Europe and in the United States. Nevertheless, in Europe the rate is set by market forces, and this was seen as an indication that the U.S. rate has been too low.

Singer-Songwriter

The record industry has sought to make some point of the apparent earnings of the publishers controlled by singer-songwriters.[524] That position ignored the fact that singer-songwriters, who usually record the first and only use of their own songs, are not subject to the compulsory license in a legal or practical sense. The evidence shows that they can freely negotiate their entire royalty packages, including both artist royalties and mechanical royalties. As discussed above, by its terms the compulsory license system does not apply to the first release of a musical composition, and is triggered only in the absence of a negotiated license.[525]

The evidence and history of the Act clearly shows that mechanical royalties received by singer-songwriters and their controlled publishers are not governed by the compulsory license. The evidence also shows that they are set by the contracts between singer-songwriters and record companies, and are entirely the product of bargaining.

The Tribunal thus concluded that because mechanical royalties are only a small part of the total contractual package between record companies and singer-songwriters, and these packages are the result of free negotiation, the amount of royalties singer-songwriters receive was not considered an issue.

Interest of the Consumer

We reject the claim that increasing the mechanical royalty rate would automatically force record companies to raise suggested retail list price. That claim is not supported by any probative evidence in the record.

The record industry argued that increases in royalties are different from other costs. They also argued that cost increases at the wholesale level are passed through, with a multiplier effect, to the retail level. The Tribunal finds that these arguments are not supported by any evidence in the record.

As noted above, increases in mechanical royalties are no different than increases in other record company costs. The evidence shows that since 1965, record companies have been able to absorb or pass on other cost increases totaling $1.49 per LP—during a time when mechanical royalties per LP increased only 3.5 cents, from 24 cents to 27.5 cents. The fact is, as a witness testified:

> No specific cost results in a (price) increase. It's the aggregate of all of these costs that will generally contribute to a price increase.[526]

It was claimed that increasing the mechanical royalty rate would be multiplied by the distribution chain, increasing cost to the consumer.[527] The evidence shows that increases at wholesale do not have an automatic multiplier effect through the distribution chain to the retail level. The evidence also shows that between 1965 and 1980, record companies increased their average margin per LP from 44 cents to $1.20—an increase of 76 cents. The record does not show why a 76 cent increase in the average profit margin cost the consumer $2.28 per album.

The evidence also shows that *reductions* in record company costs have not had a reverse multiplier effect, reflected in lower consumer prices. The record reflects what happened when 10 percent federal excise tax, levied on the wholesale price of phonograph records, was repealed by Congress in 1965. In 1965, the tax came to about 19 cents per album—10 percent of the $1.90 wholesale price. The evidence shows that when Congress repealed the tax, its primary rationale looked to consumer protection, *i.e.* the tax was a regressive measure which had a disproportionate impact on low income consumers.[528]

The evidence also shows that after repeal of the excise tax, according to RIAA's own analysis, record companies should have been able to lower the suggested retail list price by between 38 and 57 cents—based on RIAA's claims of a "multiplier" effect. The evidence shows that the industry did not pass the "multiplied" saving on to the consumer. Further that for a short time after repeal of the excise tax in June 1965, $3.98 suggested retail list prices were reduced by precisely the amount of the cost deduction, 19 cents, to $3.79.

The record reflects that there is not always an economic reason to increase suggested retail list price.[529] Stan Cornyn, of Warner Bros. Records testified:

> Well, we have raised some prices. It's an obvious answer and in my experience records that were once $3.98 or $4.98 when I started buying albums, it seems that over the years they have gone up a magic dollar every once in awhile.
>
> And I find something remarkably different happening at this time. Usually when they have gone up, one manufacturer has announced it and somehow within 48 hours, the whole industry seems to be at that next level almost like the raising or lowering of the prime rate.
>
> Somehow every bank in the country gets on that very quickly. And that happened when it went from $4.98 to $5.98. And clearly the viability of $7.98 was on the table for us a year or year-and-a-half ago.[530]

The evidence further shows that if record companies raise their prices, there is no reason to expect that distributors and retailers will add on their percentage markups to such increases, so as to multiply the amount passed on to customers. Further that distributors' and retailers' markups cover their operating expenses and their profits. The evidence shows that their operating expenses are principally labor and space charges, which do not change as the prices of their goods increase.[531] Further that the same is true for retailers. The evidence also shows that like any businessmen, distributors and retailers increase their profits to the extent that competition and consumer price resistance will allow.[532]

We find that there is no evidence in this record and no reason to believe that

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[522] Tr. 6/31, pp. 37–38.

[523] NMPA Table 20; Tr. 7/10, pp. 47–66; Tr. 9/4, p. 69.

[524] RIAA Exh. VV.

[525] 17 U.S.C. § 115.

[526] Tr. 81, p. 44.

[527] RIAA Exh. DD.

[528] H.R. Rep. No. 433, 89th Cong., 1st Sess. 25 (1965); S. Rep. No. 324, 89th Cong., 2d Sess. 29 (1965).

[529] NMPA Exh. 67; Tr. 8/6, pp. 89–90.

[530] Tr. 7/1, p. 89–90.

[531] Tr. 7/30, pp. 91–94.

[532] Ibid, p. 94.

record company price increases are dependent upon increases in mechanical royalties. Further it is clear that distributors and retailers do not automatically add a "markup" or "multiplier" to record company general price increases.

Determination of the Amount of the Royalty Adjustment

We determine that the evidence before this Tribunal conclusively demonstrates that there should be an immediate substantial increase in the mechanical royalty rate—to at least four cents per song—and that the rate should be adjusted annually to reflect increases in record prices.

The evidence shows that a comparison of evidence submitted to Congress during the period of copyright revision with evidence submitted to this Tribunal demonstrates that between 1955 and 1979 the "ceiling" of mechanical royalty payments—assuming that the statutory rate is paid on every song—declined. The record reflects that all parties agree that the purchasing power of the statutory rate has seriously eroded under inflationary pressure. Further that this erosion has become more severe since the 1950's, as inflation began to reach new levels.[533]

The evidence shows the market position of copyright owners has drastically deteriorated in absolute as well as relative terms. Likewise, the mechanical royalty rate has deteriorated relative to other record company costs. Evidence submitted shows that record company sales and promotion and general and administrative expenses have increased.[534]

Although we have concluded that aggregate statistics are less meaningful—because the rate must be fair on an individual basis—industrywide statistics confirm the deteriorating market position of the copyright owner. Evidence in the record shows that in 1955, mechanical royalties were $11.04 million, slightly more than recording artist royalties of $10.21 million. The evidence also shows that by 1979, mechanical royalties were $117.7 million, barely one-fourth of recording artist royalties, which totalled $466.2 million.[535]

The Tribunal concurs with Mr. Nathan's conclusion that increases in record sales volume do not compensate for the erosion of the mechanical royalty as a rate of return afforded copyright owners for the individual use of their songs by record manufacturers.[536]

The record reflects that as a matter of economic fact, volume has not compensated for the erosion of the mechanical royalty rate. First, increases in sales volume in the period 1974 to 1979 have not kept pace with increases in the suggested retail list price of phonerecords. During that period, average list prices increased from $4.91 to $7.09—or 44 percent. Likewise, average actual consumer prices increased from $4.05 to $5.79—or 43 percent in the five-year period.[537] Further shows that during the same five-year period, the number of songs sold increased from 4.5 billion in 1974 to 5.071 billion in 1979—barely two percent on average per annum.[538]

Second, the evidence shows that increases in sales volume in the period 1974 to 1979 have not kept pace with increases in the Consumer Price Index, which in that same five-year period increased from 147.7 to 217.4—or 47 percent.[539] The evidence also shows that although the volume of songs sold increased on average only two percent per annum over the last five years, record prices and the Consumer Price Index increased on average nine percent.

The record reflects that an increase in the mechanical royalty rate as determined will have none of the dire effects predicted by the record industry. Further evidence is what happened in 1978 and 1979. The evidence shows that in 1978 the statutory rate increased for the first time in 69 years; the increase was approximately 40%. In 1979, a general recession began. The evidence shows that in 1979 there were budget cuts, firings, and reductions in the signing of new acts. In 1978 none of these things happened; indeed the evidence in this proceeding shows no adverse events at all in 1978.[540]

The record reflects the reason why the mechanical rate increase had no effect when compared to other industry expenses. The evidence shows that in 1979, *after* the statutory mechanical rate increase had become fully effective, other record industry expenses stood in the following relation to mechancial royalties;

Artists' royalties were 4 times as large.
Production and manufacturing expenses were 5 times as large.
Selling and promotion expenses were 4⅔ times as large.
General and administrative expenses were 2 times as large.[541]

The evidence further shows that even a comparison of changes from 1977 to 1979, which gives undue emphasis to the single increase in the mechanical rate, indicates how trivial was that increase compared to other record industry expenses.[542] Taking the entire record of this proceeding into consideration, we find there is no reason for this Tribunal to consider that future increases in mechanical royalty rates would be any more significant to the record companies than was the 1978 increases.

The Adjusted Rate

The Tribunal has determined that the application of the statutory criteria to the evidence in this proceeding demonstrates that the mechanical royalty rate must be adjusted to either four cents, or three-quarters of one cent per minute of playing time or fraction thereof, whichever amount is larger, for every phonorecord made and distributed on or after July 1, 1981. We further determined that in order that the rate shall remain reasonable until this Tribunal may next convene rate adjustment proceedings in 1987, it is necessary to set the rate in a manner that will respond to changes in record prices.

A review of the entire record also shows that there is no evidence to support; no logic behind, and certainly no equity in, a rate which does not approach a reasonable rate. We, therefore, determined that any adjustment to the rate should and must be directly related to the retail list price of records, now and in the future.

Taking the entire record in this proceeding into consideration, we have determined to adjust the mechanical royalty upward from the rate adopted by Congress. The record shows that evidence was submitted to this Tribunal relating to changes in record prices since the last year for which Congress apparently had data to date.

We have determined that from the time that Congress apparently had such data, record prices increased substantially; we further determined that the 2¾ cent existing rate has also seriously eroded under inflationary pressure.[543]

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[533] NMPA Chart A; Rinfret Study, Vol. 1, p. 22; Tr. 7/23, p. 90.

[534] Glober Report, pp. 47–48; James Fitzpatrick letter 7/17/80, Exh. 3.

[535] NMPA Table 10; NMPA Chart G.

[536] Tr. 5/14, p. 61.

[537] NMPA Table 15, 16.

[538] Nathan Reply Comments, Table 13.

[539] NMPA Table 15, 16.

[540] Cornyn, 7/1, pp. 21–22, 35–36, 54–55, 62–64; 7/2, 52–54; Butler, 6/26, pp. 72, 83, 88–90, 141–142; McCracken, 7/15, pp. 25–26, 75–77.

[541] CRI Exhibit 1–3.

[542] AGAC Cross Exh. 2.

[543] Economic Study of Average Retail Prices of LP's, Tapes and Singles from 1974–1979, submitted by RIAA, date April 7, 1980. Economic Study of the Record Industry for the Section 115 Rate-making Proceeding, prepared by Cambridge Research Institute for RIAA, April 7, 1980. NMPA Table 15.

The Tribunal recognizes that Congress intended that the rates in the Act should not be regarded as precedents in future proceedings of this Tribunal. We have not in our determination, considered the rates established by Congress as precedential but we have taken them into consideration as a "benchmark of reasonableness."

We thus determined under the governing criteria of the statute and the evidence in this record, that the rate of 2.75 cent or ½ cent per minute of playing time, thereof established by Congress must be adjusted upward to either four cents, or three-quarters of one cent per minute of playing time or fraction thereof. The new rates shall become effective July 1, 1981 for every phonorecord made and distributed after that date.

We further determined that in order to ensure the copyright owners a continuous fair return, the above rate must be adjusted annually. The adjustment shall only take place if the record industry increases, during any 12 month period, the average suggested retail list price of records.

On December 1, of each year, beginning in 1981, the Tribunal shall publish in the **Federal Register** a notice of any further changes in the rate which shall be directly proportionate to the change, if any, in the average suggested retail list price of albums between the twelve-month period ending October 31, of the preceding year and the twelve-month period ending October 31 of the year in which the notice is published.

We determined from the evidence in this record that the use of suggested retail list price is a "total prevailing" industry practice in the United States record industry.[545] The evidence before us did not disclose a single example of a single phonorecord made and distributed in the United States without a suggested retail list price.

The evidence shows that most record companies in the United States, including all of the major companies with the exception of CBS and Capitol, use suggested retail list price as the basis for computing royalties payable to recording artists and procedures.[546] The evidence also shows that many record companies are currently obliged, by existing contracts, to maintain suggested retail list price at a fair level, consistent with its accepted meaning in the industry.

The record shows that the question has been raised regarding the possibility that suggested retail list price will be abandoned in this country. The evidence shows, however, that the extensive use of suggested retail list price in artist royalty contracts and in marketing practices, makes that prospect highly unlikely. The record also shows that the record industry would disrupt its own industry practices if it chooses to abolish suggested retail list price.

The Tribunal determined that if a particular record company abandons suggested retail list price, the annual adjustment shall be based on change in the average wholesale price of albums for the corresponding periods.

We further determined that in the event a different configuration of phonorecords becomes the predominant configuration of phonorecords made and distributed in the United States, changes in the average suggested retail list price or average wholesale price of that configuration shall be used as the basis of the adjustment.

We further determined that the average suggested retail list price or average wholesale price shall be determined by the Tribunal from Tribunal conducted surveys and/or studies. Further, that persons affected by an adjustment will have the opportunity to submit comments, surveys, studies, or recommendations to the Tribunal for consideration. In addition, voluntary agreement on an adjusted rate by parties affected, can be submitted for the Tribunal's consideration.

The Tribunal determined that the transitional provision followed by Congress equitably balanced the interests of copyright owners and copyright users. We found that to apply the new rates to phonorecords made and distributed after the effective date of any royalty adjustment is less disruptive to the industries and is in accordance with current generally prevailing industry practices.

Conclusion

In considering a reasonable adjustment of the mechanical royalty rate for the compulsory license, the Tribunal considered all the relevant evidence in the record. We recognized that a still raging inflation has occurred since the last year for which Congress apparently had financial data.

We find that the record companies, the copyright users, are able to increase the price of their products to insure theirselves a fair income. On the other side, however, the songwriters and their music publishers, the copyright owners, suffer an unreasonably low mechanical royalty, payable at an ever diminishing rate in real dollars. We, therefore, conclude that as a matter of substantial evidence of record, the 2¾ cent statutory rate is unreasonably low and does not implement the statutory criteria.

Based on our consideration of the entire record of this proceeding: our consideration of the evidence which has occurred since the last year for which Congress apparently had financial data: our consideration of the average retail list price evidence; and our consideration of the inflationary rate evidence, we conclusively find that an adjustment of the royalty to four cents with annual adjustment is warranted as of July 1, 1981.

We conclude that while the Tribunal must seek to minimize disruptive impacts, in trying to set a rate that provides a fair return it is not required to avoid all impacts whatsoever. The fact that an increase in the rate will increase costs is not *per se* an argument against raising the rate. There have been benefits to others from cost and price increases in the past without any benefit to the copyright owner.

We further conclude that under the controlling criteria and substantial evidence of record that an upward adjustment to four cents with annual adjustment as adopted by this Tribunal in its final determination on December 19, 1980 and published in the **Federal Register** of January 5, 1981 (45 FR 891) is warranted.

Note.—Commissioners James, Brennan, Coulter and Garcia concurred in the above opinion. Commissioner Burg has written minority views.

Clarence L. James, Jr.,

Chairman, Copyright Royalty Tribunal.

January 29, 1981.

Minority Views of Commissioner Burg

I disagree with and dissent in the decision to adjust the rate of royalty payable under compulsory license for making and distributing phonorecords to four cents for each work embodied in the phonorecord, or three-quarters of one cent per minute of playing time or fraction thereof, subject to annual adjustments based on the change, if any, in the average suggested retail list price of albums.

In my opinion an increase in the flat rate of this magnitude, more than 45% over a rate that has been in effect for three years, coupled with a yearly adjustment which in all probability will have an immediate multiplier effect, ignores the statutory criteria, particularly 17 U.S.C. 801(b)(1)(B) which admonishes the Tribunal "to afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions." I do not believe the function of this Tribunal, the 1980 royalty rate review as mandated by Congress, is to redress inequities, real or imagined retroactively. I am persuaded that

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NMPA Table 2, NMPA's Dec. 15, 1980 letter to Commissioners Brennan and Coulter.

[545] Tr. 6/19, pp. 18–19.

[546] Tr. 7/2, pp. 86–89.

when Congress enacted the 37½% increase in the mechanical rate in 1976 it was aware of and took into consideration the 1978 effective date of the revised legislation, and the subsequent review by the Tribunal in 1980. The evidence in this proceeding is incontrovertible that Congress reviewed the financial data of the record industry through calendar year 1974, and set the 2¾ cents rate accordingly.

Therefore, my initial preference was to designate 1978 or 1980 as the base year, increase the mechanical rate to 3.25 cents per tune effective January 1, 1982 and provide upward adjustments in 1984 and 1986. Consequently in an effort to embrace the resolution I indicated I would accept 1975 as the base year, a year which also can be supported by the evidence in this proceeding, and a year which would have produced a rate of 3.6 cents per tune. I would have accepted periodic adjustments reflecting the change in record prices. However I am opposed to annual adjustments as being unavoidably disruptive on generally prevailing industry practices, which in my opinion ignores the statutory criteria, 17 U.S.C. 801(b)(1)(D).

Furthermore the package increase adopted by the majority will without question be borne by the consumer, triggering a substantial and unnecessarily excessive cost impact.

To conclude I strongly believe this mechanical rate increase to 4 cents per tune with yearly adjustments cannot be supported by the record in this proceeding and is indefensible in the light of commercial realities.

[FR Doc. 81-3932 Filed 2-2-81; 8:45 am]
BILLING CODE 1410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-4-FRL 1743-8]

Georgia's Application for Phase I Interim Authorization of a State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of final determination.

SUMMARY: The purpose of this notice is to announce the final determination that thas been made in regard to an Application for Phase I Interim Authorization submitted by the State of Georgia.

The Environmental Protection Agency has reviewed Georgia's Application for Interim Authorization and has determined that Georgia's Hazardous Waste Program is substantially equivalent to the Federal program as defined by regulations promulgated under the Resource Conservation and Recovery Act of 1976 (RCRA). The State of Georgia is hereby granted Interim Authorization to operate its Hazardous Waste Management Program in lieu of Phase I of the Federal RCRA Subtitle C Hazardous Waste Management Program. This issuance of Interim Authorization is in accordance with Section 3006(c) of RCRA, implementing regulations found in 40 CFR Part 123, Subpart, F, and EPA Delegation 8-7.

EFFECTIVE DATE: Interim Authorization, Phase I, for Georgia shall become effective February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Heather M. Ford, Residuals Management Branch, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, Federal Register (45 FR 33063), the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), to protect human health and the environment from the improper management of hazardous wastes. The Act (RCRA) Includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive Final Authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program will be implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Georgia submitted its Draft Application for Phase I Interim Authorization on August 8, 1980. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration. The State subsequently made revisions to its Application for Phase I Interim Authorization in order to clarify those aspects of its program which had been questioned during the EPA review.

On October 31, 1980, Georgia submitted to EPA a Final Application for Phase I Interim Authorization under RCRA. An EPA review team consisting of both Headquarters and Regional Office personnel made a detailed analysis of Georgia's Hazardous Waste Management Program. The following issues were raised by the review team:

(1) The State Attorney General's Statement discusses 90 day storage requirements for transporters. The State regulations (391-3-11-.09(2)) require transporters to comply with storage requirements only after a 90 day period.

(2) The State EPD had not stated how it will inspect transporters handling *intrastate* shipments of hazardous waste for compliance with State regulations incorporating U.S. DOT packaging, labeling, marking, and placarding requirements. The U.S. DOT will enforce those standards against interstate transporters.

(3) The Attorney General did not adequately provide assurances of public participation procedures in the State. Concern was expressed that State law does not allow citizen intervention as a right.

(4) The State law and regulations provide a mechanism for variance procedures. The State needs to provide additional information on how variances and Interim Status Standards will be handled.

To resolve these issues the State provided the following documentation:

(1) The State Attorney General clarified the interpretation of this regulation in a December 12, 1980, submittal to EPA. The State acknowledges that transporter storage for less than 90 days without compliance with Interim Status Standards is less stringent than EPA. The Attorney General states that this storage must be a *necessary incident* to the transportation of hazardous waste; otherwise, it would be considered a storage facility and compliance with Interim Status Standards would be required. By letter dated January 9, 1981, Georgia amended the Authorization Plan to include a commitment to revise the transporter storage standard to ensure substantial equivalence to the Federal requirement which has a ten day limitation.

(2) EPD stated in a letter dated December 12, 1980, that the State will inspect interstate and intrastate transporters to determine compliance with those standards through inspection activities associated with generators and operators of TSD facilities and investigations of hazardous waste spills. An agreement with U.S. DOT will be sought to avoid duplication of effort and

to exchange information. In order to receive Interim Authorization, State programs need not provide for administration and enforcement of packaging, labeling, marking, and placarding standards (see Federal Register dated May 19, 1980, at pp. 33392–33393). By a letter dated January 9, 1981, Georgia has committed to amend the MOU with DOT for Final Authorization.

(3) A memo dated December 12, 1980, from Arthur K. Bolton, Attorney General in the State of Georgia, clarified this point as follows: The EPD has stated they will not oppose intervention in enforcement actions by applicant parties on the grounds that the applicant's interest is adequately represented by existing parties. The Attorney General's office will support this decision and legal enforcement actions will be consistent with it.

(4) The Georgia Act defined "existing facilities" as facilities which meet the four criteria as specified in the Act. These criteria, if met, allows the facility to continue operation until the Director of EPA acted on the application submitted for a Hazardous Waste Facility Permit. The Attorney General stated that the variance procedure will be used to require compliance with Interim Status Standards and therefore, compliance with the requirements of 40 CFR Part 265.

Responsiveness Summary

As noticed in the Federal Register on November 13, 1980 (45 FR 63888), EPA gave the public until December 22, 1980, to comment on the State's application. EPA also held a public hearing in Atlanta, Georgia, on December 15, 1980. At the public hearing the State submitted clarifications to the application as part of the public record. The comment period then was extended until December 29, 1980. The oral comments received at the public hearing and written comments submitted directly to EPA are summarized below along with EPA's responses.

Public Hearing and Comment Period

The Federal Register on November 13, 1980, listed the comment period as ending on December 22, 1980. EPA review of the Final Application raised four points which needed further clarification. At the Public Hearing on December 15, 1980, the State submitted these clarifications as part of the public record. The comment period then was extended until December 29, 1980. The oral comments received at the public hearing and written comments submitted directly to EPA are summarized below along with EPA's response.

There were eight individuals who spoke at the public hearing. Their comments and EPA's responses are presented below.

Comment: Two of the speakers made statements which supported the State's hazardous waste program as it was submitted in their Final Application.

EPA Response: No response needed.

Comment: One speaker felt that the Georgia EPD laboratory program does not have the capability to monitor all the hazardous waste in the State.

EPA Response: All facilities in Georgia are required to test their waste materials and keep records of this testing on file. These records will be reviewed for compliance during inspections by EPA and EPD. In the application the Program Description discusses the laboratory facilities and staff in detail and shows that the State has the capability to take samples and perform the required analyses. EPA has determined the program satisfies the requirements for Phase I Interim Authorization.

Comment: One speaker stated that State law will be in effect in a State which receives Interim Authorization. The speaker was concerned that potential State politics could influence any decisions made by EPD.

EPA Response: The intent of the Resource Conservation and Recovery Act (RCRA) was for EPA to provide the legislative and regulatory framework for the hazardous waste program. Substantially equivalent State programs may operate in lieu of the Federal program. When Interim Authorization is granted, State laws and rules will apply. EPA retains an oversight capacity in all areas of the program and may enforce the State requirements. Georgia will be required to submit detailed reports on the progress of the program. (These are outlined in the Memorandum of Agreement). Georgia EPD will be working closely with the EPA, especially during the period of Interim Authorization.

Comment: One speaker felt that steps should be taken to eliminate all toxic wastes, regardless of the cost.

EPA Response: RCRA does not ban the generation of hazardous waste. Hazardous wastes which are generated must be handled in an environmentally sound manner. EPA, State agencies, and industry must work together to ensure adequate protection of human health and the environment during the handling, transportation, treatment, storage and disposal of hazardous waste.

Comment: One speaker argued that EPA's decision on the State application should await the outcome of a lawsuit challenging the constitutionality of State law and regulations. Local laws on the siting of facilities may preempt State law.

EPA Response: RCRA requires that EPA determine whether a State program, which is in existence pursuant to State law, is substantially equivalent to the Federal program. EPA must rely upon the constitutionality of the State law as presently enacted. Any decision by a State court that would affect existing hazardous waste laws and/or regulations will be reviewed by EPA and appropriate action taken. More stringent site selection requirements, imposed by States or their political subdivisions, are not prohibited by Federal law. A decision on whether State or local bodies may set those requirements must be made by State courts.

Comment: One speaker stated that the Georgia program failed to comply with Federal requirements for public participation in the State enforcement process.

EPA Response: State law may impose more stringent requirements than either subsections (i) or (ii) of 40 CFR 123.178(f)(2) which contain minimum guidelines for public participation in the enforcement process. EPA has determined that the Georgia plan for public participation in the State enforcement process is more stringent than the second option, subsection (ii). Georgia law provides a conditional right to intervene in civil actions to citizens unless their interests are adequately represented by exisiting parties (GA. Code Ann. 81A–124). The State enforcement authority has provided assurances that efforts to intervene will not be opposed on the ground that the State adequately represents the interest of the citizen.

Comment: Several speakers were concerned with the permitting process. One speaker stated that the Georgia application did not adequately address groundwater concerns and requested a one year moratorium on permitting these sites. There was specific concern for a permit to operate a proposed hazardous waste disposal site in Heard County, Georgia.

EPA Response: The Federal program, at this time, does not include technical standards or procedures for permitting new facilities, including groundwater monitoring. These will be addressed in Phase II regulations. Before the State may permit new facilities, Georgia must amend its Application for Interim Authorization and show that its permit standards and procedures are substantially equivalent to the Federal Phase II program. Georgia's Application

for Phase II Interim Authorization will go through the same type of public review and comment period as the Application for Phase I Interim Authorization. RCRA requires that EPA issue a permit where the applicant has demonstrated compliance with the applicable facility standards.

In addition to the oral comments received at the public hearing, written comments were received from nine individuals or organizations during the review period. The written comments and EPA's responses are summarized as follows:

Comment: Four commenters supported the State's request for Interim Authorization and expressed the feeling that a State agency could implement and manage the program more effectively than a Federal agency.

EPA Response: No response needed.

Comment: One commenter supported the State's request for Interim Authorization, but was concerned with the State's ability to regulate and monitor intrastate transportation of hazardous waste on railroads, rivers, or State-funded roadways.

EPA Response: State standards for transporters of hazardous waste have been determined to be substantially equivalent to the requirements of the Federal program. Transporters of bulk shipments by rail or water are required to include specific information on the shipping paper which accompanies the waste instead of a manifest. The Georgia Attorney General has certified that EPD is authorized to enter vehicles and premises and to inspect, monitor, or otherwise investigate compliance with State program requirements (GA Code Ann. § 43–2911 and Rule 391–3–11–.12). Since the U.S. DOT regulates transporters of hazardous materials under Public Law 93–633, they may enter into an agreement with the State to avoid duplication of efforts and to share information in enforcement activities.

Comment: The above commenter also expressed concern with the amount of funds requested by Georgia for public participation activities. The individual felt that the total amount allocated in the budget should be increased and suggested these additional funds should be used for planning, assisting citizens groups, operating workshops, and funding a full time public participation officer.

EPA Response: The budget outlined in the Georgia application for Interim Authorization has been approved by EPA for 1981. The funds for additional activities in future years will be aimed at implementing activities which the commenter mentioned. A full time EPD staff member coordinates the public participation activities as outlined in Appendix IV in the Georgia application.

Comment: One commenter was concerned with a legal requirement under 3006(c) of RCRA that a State hazardous waste program must be in existence within ninety days after the date of promulgation of Federal regulations.

EPA Response: The Federal regulations were promulgated on May 19, 1980, and a State hazardous waste program must have been in existence by August 17, 1980. The Federal Register of May 19, 1980, p. 33387, interprets "program" as meaning enabling legislation only. Although RCRA does not require States to have more than legislative authority in place, all aspects of the State program must be substantially equivalent to the Federal program when Interim Authorization is actually granted. The Georgia legislation was in existence prior to August 17, 1980, and EPA has determined its program is substantially equivalent to the Federal program.

Comment: The above commenter stated that EPA should require that Georgia adopt Federal transporter rules as they may be amended. The commenter feels the State regulations should be revised to indicate that the storage period begins when the hazardous waste is removed from the transport vehicle.

EPA Response: Georgia will amend State regulations when Federal standards are revised. This administrative procedure was outlined in the Authorization Plan, Chapter IV, in the application.

Comment: Two commenters expressed concern about the State's regulations being inconsistent with the Federal regulations now and in the future.

EPA Response: Georgia regulations require that the State standards be consistent with the intent of the State Act and with the Federal law and regulations promulgated thereunder. If EPA regulations are revised, then Georgia must also revise State regulations. This procedure is outlined in the Authorization Plan submitted in the application.

Dated: January 9, 1981.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 81-3930 Filed 2-2-81; 8:45 am]

BILLING CODE 6560-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 3, 4, and 5

Procurement Regulation Directive 80-10 (Dated December 22, 1980) Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80–10 concerning the following areas:

1. Prenegotiation Review Policies and Procedures.
2. Contract Negotiation Memorandum.
3. Utility Services.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202–755–2237.

SUPPLEMENTARY INFORMATION:

1. In Part 3, a new 3.804–5, "Prenegotiation Review Policies and Procedures" is added to foster a greater degree of uniformity and consistency between procurement offices in preparing for negotiations. This revision requires each NASA installation to establish a formal system for prenegotiation review of proposals which exceed the dollar thresholds specified in 3.804–5(c). Additionally, approval of the prenegotiation position by the Director of Procurement is required prior to entering into negotiation on all procurement actions selected for Headquarters review.

2. In Part 3, 3.811 is revised to make corollary changes associated with the new prenegotiation coverage in 3.804–5 and to recognize that negotiation of a contract encompasses more than just price considerations.

3. Part 4.50 and Part 5.8 are revised to (1) recognize additional types of utility services such as natural gas, fuel oil used in stationary plants, refuse and wood products when purchased for use as an energy source; (2) revise the procedures for determining the requirements for utility services by technical personnel; (3) require the preparation of a "Utility Service Narrative" by the Contracting Officer prior to the initiation of negotiation procedures; and (4) to update references to NASA offices in accordance with changes in organizational designations.

Authority: The provisions of this document are issued under 42 U.S.C. 2473(c)(1).

Stuart J. Evans,

Director of Procurement.

Part 3—Price Negotiation Policies and Techniques

1. In Part 3, Table of Contents, 3.804–5 is added to read as follows:

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3.850 and 3.851 [Amended]

2. In Part 3, Table of Contents, 3.850 and 3.851 are amended by adding an "A" after each page number.

3. In Part 3, 3.804–5 is revised to read as follows:

3.804–5 Prenegotiation Review Policies and Procedures.

(a) *Prenegotiation Position Memorandum.* Prior to the conduct of negotiations requiring Center or Headquarters review (see (c) and (d) below), contracting officers, or their representatives, shall prepare a Prenegotiation Position Memorandum setting forth the technical, business, contractural, pricing, and other aspects to be negotiated. Matters for negotiation may result from proposal evaluations, contractor requests, unique Center requirements, and other Government agencies' requirements, among others.

(b) *Content of the Prenegotiation Position Memorandum.* The Prenegotiation Position Memorandum should fully explain the Contractor and Government positions on any open issues as well as identify and justify the elements that are acceptable as proposed. Since the Prenegotiation Position Memorandum will ultimately become the basis for negotiation, it should be so structured that it provides an audit trail to the Contract Negotiation Memorandum (3.811). Generally, the Prenegotiation Position Memorandum should address the following subjects in the order presented:

(1) *Introduction.* Included under this heading should be a brief description of the procurement and a brief history to indicate the extent of competition and results thereof. The identification of the contractor and the place of performance (if not evident from the description of the procurement) shall be included. In addition, the negotiation schedule should be addressed, and the Government negotiating team identified by name and position.

(2) *Special Features and Requirements.* In this area, discuss any special features of the procurement including such items as: (1) Letter contract or precontract cost requirements, (2) Government property to be furnished, (3) contract option requirements, (4) contractor/Government investment in facilities and equipment (and any modernization thereof to be provided by the contractor/Government), and (5) any deviations, special clauses or conditions anticipated. Discussion of each such special feature or requirement should include an identification of any potential cost impacts.

(3) *Cost and Profit/Fee Analysis.* Included under this heading should be a parallel tabulation by element of cost and profit/fee of the contractor's proposal, the Government's negotiation objective, and maximum position. For each element of cost, compare the contractor and Government estimate and explain how each was developed, including the estimating assumptions and projection techniques employed. Further, explain how historical costs, including costs incurred under a letter contract (if applicable), were used in developing the negotiation objective. Significant differences between the field pricing report (including any audit reports) and the negotiation objectives and/or contractor's proposal should be highlighted and explained. Also, technical evaluation results which caused the Government's cost negotiation objectives to significantly differ from the contractor's proposed cost, such as differences in staffing, etc., should be highlighted and explained. Further, there should be an identification and a brief discussion of each major subcontract involved, citing the type of subcontract, and stating the degree of analysis performed on the subcontract cost estimate. In addition, the rationale for the Government's profit/fee objectives, and a completed copy of the NASA Form 634, where appropriate, should be included.

(4) *Type of Contract Contemplated.* Explain the type of contract contemplated and the reasons for its suitability. For an incentive contract, including an award fee, describe the planned structuring arrangement in terms of profit/fee patterns, share lines, ceilings, etc.

(5) *Negotiation Approval Sought.* Indicate the specific approvals sought, *e.g.*, dollar parameters, special clauses/conditions not constituting deviation (NOTE: Requests for Deviation must be processed in accordance with 1.109–3), type of contract, fee objectives, etc.

(c) *Center Reviews.* Each procuring activity shall establish a formal system for the prenegotiation review of any proposal over $250,000 ($100,000 at National Space Technology Laboratories, Jet Propulsion Laboratory, Wallops Flight Center, and Headquarters Contracts and Grants Division). The scope of coverage, exact procedures to be followed, levels of management review and contract file documentation requirements, should be directly related to the dollar value and complexity of the procurement and will be determined by each Center. The primary purpose of these reviews is to ensure that the negotiator, or negotiating team, is thoroughly prepared to enter into negotiations with a well conceived, realistic, and fair plan.

(d) *Headquarters Reviews.* Approval of the prenegotiation position by the Director of Procurement is required prior to entering into negotiations on all procurement actions selected for Headquarters review. Generally, at the time a procurement is processed as a Master Buy Plan (MBP) action, in accordance with 20.5100, a decision will be made as to whether the prenegotiation position will be subject to Headquarters review and approval. However, prenegotiation positions on MBP procurement actions where the prenegotiation position was not initially selected for Headquarters review and approval, and other non-MBP procurement action prenegotiation positions, may be selected for Headquarters review and approval at any point in the procurement cycle prior to actual negotiations.

(1) *Scheduling of Presentation.* When a prenegotiation presentation is required by Headquarters or requested by the Center, scheduling of the presentation will be arranged by the Office of Procurement, Program Operations Division (Code HS–1), in consultation with appropriate Headquarters program officials. It is the responsibility of the Center to notify the Office of Procurement sufficiently in advance of the desired presentation date in order to permit scheduling and preparation by Headquarters staff.

(2) *Advance Information.* Not less than ten working days in advance of the scheduled prenegotiation presentation, the Center shall provide Code HS–1 with the following:

(i) Five copies of the Center's Prenegotiation Position Memorandum which sets forth in narrative form the negotiating team's objectives.

(ii) Five copies of any briefing charts and/or vu-graphs to be used in the presentation. Briefing charts and/or vu-graphs shall summarize key points/factors identified in the Prenegotiation Position Memorandum and should be grouped, in the same manner as presented in the Memorandum. Only key words or expressions should be

used on the charts or vu-graphs—complete sentences are not necessary.

(iii) One copy each of the contractor's proposal, the Government technical evaluation, and all pricing reports (including any audit reports).

(3) *Waiver.* The Director of Procurement may waive the presentation requirement where, based on Headquarters review of the advance information provided under (2) above, it is clear that Center personnel are thoroughly prepared to enter into negotiations.

(4) *Safeguarding Prenegotiation Material.* Prenegotiation data is very sensitive in nature and should be handled accordingly. Close coordination with Program Operations Division (HS–1) personnel should be maintained to ensure that prenegotiation material is not compromised during transit. Distribution of prenegotiation data shall be made on a need-to-know basis.

4. In Part 3, 3.811 is revised to read as follows:

3.811 Contract Negotiotion Memorandum.

(a) At the conclusion of each contract (see 1.207) negotiation, contracting officers or their representatives shall promptly prepare a Contract Negotiation Memorandum. This memorandum serves as a detailed summary of (1) the technical, business, contractual, pricing and other aspects of the contract negotiated, and (2) the methodology and rationale used in arriving at the final negotiated agreement.

(b) Normally, the Contract Negotiation Memorandum is a "stand alone" document. However, when a Prenegotiation Position Memorandum has been prepared, under 3.804–5, the subsequent Contract Negotiation Memorandum need explain (1) only the differences between the prenegotiation position and the final negotiated settlement, and (2) the areas indentified in paragraphs (c) and (d) below.

(c) Each Contract Negotiation Memorandum should include an explanation of why cost or pricing data was, or was not, required (see 3.807) and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data were submitted and a certificate of current cost or pricing data was required (3.807–6), the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the contracting officer in determining his total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which the contracting officer recognized in the negotiation that any cost of pricing data submitted by the contractor was inaccurate, incomplete, or noncurrent; the action taken by the contracting officer and the contractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the final negotiated settlement differs significantly from the prenogotiation position, the memorandum shall explain this difference.

(d) As part of the requirement in (a) above, determination of the profit or fee objective, in accordance with 3.808, shall be fully documented.

(e) After completing a negotiation that exceeds $100,000, the contracting officer shall forward a copy of the Contract Negotiation Memorandum to both the cognizant audit and contract administration offices. The memorandum should aid both offices in improving the usefulness of their input. Where appropriate, the Contract Negotiation Memorandum should include or be supplemented by information on how these offices can achieve this objective.

Part 4—Special Types and Methods of Procurement

5. In Part 4, Table of Contents, 4.5000 through 4.5009–3 are revised to read as follows:

6. in Part 4, 4.5000 through 4.5009–3 are revised to read as follows:

Subpart 50—Utility Services

4.5000 Scope of Subport. This Subpart prescribes policy and procedures for the procurement and sale of utility services.

4.5001 Definitions. As used in this Subpart, the following terms have the meaning stated below:

(a) *Utility Services* include electric, natural gas, fuel oil used in stationary plants, coal, steam, refuse, wood or wood products when purchased for use as an energy source, water, sewage, and communications services.

(b) *Communication Services* include without limitation the transmission, emission, or reception of signals, signs, writings, images, soundings, or intelligence of any nature by wire, radio, optical, or any electrical or electromagnetic means.

(c) *Telecommunications Facilities* includes equipment (modems, cable, terminal and switching facilities) used for such modes of transmission as telephone, telegraph teletypewriter, data, facsimile, radio, video, audio, and such corollary items as card transceivers, magnetic tape terminals, TV cameras, monitors, distribution systems and communication security facilities.

(d) *Communications Security Facility* is any facility which is used for the operation, maintenance, and/or storage of any cryptographic document, device or equipment associated with transmission security, cryptosecurity or physical security measures.

(e) *Operational Communications* are those lines and facilities carrying mission related information for the conduct of NASA technical missions, programs, and projects. They interconnect such facilities as NASA's foreign and domestic tracking, telemetry, and command control sites; launch areas; test sites; and, mission control centers.

(f) *Administrative Communications* are those lines and facilities carrying non-operational information for the conduct of day-to-day business. They interconnect NASA Headquarters, field installations, and other activities. Also included in this definition are local facilities and field installation communications systems, but not self-contained services such as local fire alarms, warning systems, paging devices, etc.

(g) *General Purpose Communicotions* are administrative or operational communications used to meet ordinary requirements for which rates have not been established.

(h) *Speciol Purpose Communicotions* are administrative or operational communications used to meet unique, one of a kind, or project oriented requirements for which rates have not been established.

(i) *Long Lines* refers to communication lines extending beyond the boundaries of the installation as opposed to"Local Support" which refers to communications within the boundaries of the installation.

(j) *Stondord Services* are those services where communications charges are governed by tariff or are otherwise controlled or regulated by a Government agency (either domestic or foreign) or where a previously executed contract is in effect with NASA or another Government agency which defines the services to be provided and the rates to be charged.

(k) *Non-Stondord Services* are those services where communications charges are not governed by tariff or are not otherwise controlled or regulated by a Government agency (either domestic or foreign) or where there is not a previously executed contract in effect with NASA or another Government agency which defines the services to be provided and rates to be charged. Non-standard services also include those services provided by a company for a single customer and are usually one-of-a-kind.

4.5002 Policy.

(a) It is NASA policy to obtain utility services from existing sources when such sources are adequate and economical arrangements can be made for their use. In each case and after fully investigating all sources, the required services shall be obtained at the lowest possible cost to the Government. To the extent consistent with this policy, use should be made of:

(i) General Services Administration area-wide utility contracts (see Part 5, Subpart 8).

(ii) Department of Defense area-wide communication contracts (see Part 5, Subpart 8).

(iii) Utilities services available from other Government agencies, on a cross-servicing basis.

(iv) Department of Defense area-wide fuel oil and other energy source contracts (see Part 5, Subpart 8).

(b) Administrative long-line telphone communications will be obtained by NASA through General Services Administration's Federal Telecommunications System (FTS) (see paragraph (d)(2) below).

(c) Generally, leased communication services will be procured from a franchised communication common carrier whenever possible. However, in those areas where non-regulated industry offers the same communications services or equipment as offered by the regulated common carriers, full consideration must be given to competitive procurement.

(d) NASA's policy for providing certain communications services to contractors is as follows:

(1) NASA may provide administrative and operational telephone communications services to industrial and scientific organizations conducting research and development, fabrication of equipment, or operation and maintenance of facilities for NASA.

(2) Where the requirement is for administrative long-line telephone service, the service will be provided through the General Services Administration's Federal Telecommunications System, and may be furnished at no cost to the above mentioned contractors when it is determined to be in the best interest of the Government. The following criteria must be met prior to requesting the extension of FTS service to a NASA contractor:

(i) the total amount of the contract will be in excess of five million dollars;

(ii) the contract will be long term; two or more years (including options);

(iii) the contract must be of a type that permits the contracting officer to adjust its terms and charges to allow for the fact that the Government is providing this service at no cost; and

(iv) FTS is required and will be used in direct support of the contract and is not to be used for non-NASA business. The contractor shall submit a letter certification to this effect to the contracting officer.

If it is determined that all four criteria are met, the request should be referred to the Office of Space Tracking and Data Systems, NASA Headquarters (Code TS). The Office of Space Tracking and Data Systems will make the necessary implemention for FTS with the General Services Administration.

(3) When long-line communications services, other than administrative long-line telephone communications services, are furnished at no cost, the contractor will use the services for the conduct of NASA business between:

(i) locations of the same contractor;

(ii) the contractor and other NASA contractors; and

(iii) the contractor and NASA or other Government agencies.

(4) Local support services to be used solely for the conduct of business may be provided at no cost when it is determined to be in the best interest of the Government. The Office of Space Tracking and Data Systems will also coordinate the implementation for local service as applicable under NASA Management Instruction 2520.1. "Communications System Management Responsibilities."

(5) Communications services may be provided to contractors in the conduct of NASA business at a minimum total cost consistent with requirements for capacity, effectiveness, efficiency, reliability, and security. The decision to provide communications services to contractors will be made in accordance with the policies established by the NASA installations.

(e) The provisions of paragraph (a) through (d) above do not cover the procurement of communications security facilities. Such facilities, other than crypto equipment will be procured under the supervision of the Director. Institutional Operations (Code NI–1). Crypto equipment will be obtained from and through the NASA Crypto Custodian (Code NHS–25). Reference manual NPC 106 (classified), "Manual for Safeguarding of Crypto-material" and NASA Management Instructions 1136.10. "Administrative Services Division" and 1136.4, "Security Division."

4.5003 Determination of Requirements. Requirements for utility services shall be determined by technically qualified personnel who will assist the contracting officer, as required. Prior to soliciting technical assistance outside of the agency, technical personnel will contact the NASA Headquarter's Network Systems Division (Code TS–1) for communications assistance and the Facilities Division (Code BX) for other utilities.

4.5004 Headquarters Participotion in Negotiotions.

4.5004–1 Communicotions Services.

(a) Except as provided in paragraphs (b), (e), and (f) below, the contracting officer shall submit the following information on a proposed procurement to the Office of Space Tracking and Data Systems (Code TS), prior to initiating negotiation procedures:

(i) lease versus purchase considerations. The guidelines as prescribed by the Office of Space Tracking and Data Systems will apply to all lease versus purchase considerations:

(ii) in the case of leased communications services from regulated common carriers, information relative to

a common carriers submission of a special construction proposal; the application of the special assembly feature of a tariff; the application of estimated rates (pending tariff filing); and, action taken to cancel or terminate services subject to a termination liability; and

(iii) in the case of communications services, information relative to the installation consideration that a separately negotiated contract is more advantageous to the Government than the General Services Administration (GSA) or Department of Defense (DoD) area-wide communication contracts along with a request for a waiver of the requirement to use either the GSA or DoD area-wide communications contract. In determining whether a GSA or DoD area-wide communications contract is adequate to meet the requirement of the using installation, consideration should be given to (A) the area-wide contract rates viewed in light of the magnitude of the services required, (B) any unusual characteristics of the service required, (C) any special equipment or facility requirements, and (D) any special technical contracts.

(b) NASA installations are authorized to execute call orders under DoD or GSA area-wide contracts for general purpose or special purpose communications provided:

(i) charges for communications services do not exceed $150,000 for either non-recurring charges or termination liability costs;

(ii) the annual recurring charge does not exceed $500,000; and

(iii) the requirement for such services has previously been approved by the Associate Administrator for Space Tracking and Data Systems.

(c) Based upon a review of the information submitted in accordance with paragraph (a) above, the Office of Space Tracking and Data Systems will promptly notify the contracting officer of the desirability of NASA Headquarters participation in the negotiation proceedings in an advisory capacity.

(d) Each NASA installation is responsible for providing the Office of Space Tracking and Data Systems its administrative telecommunications requirements in accordance with NASA Management Instruction 2520.1C.

(e) All NASA installations requiring general purpose communications services contracts will submit a written request for the services to the Office of Space Tracking and Data Systems (Code TS) where:

(i) an area-wide contract is not available;

(ii) an area-wide contract exists but service requirements involve recurring charges in excess of $500,000 annually, or $150,000 for non-recurring or termination liability costs; or

(iii) rates have not been filed and approved by a federal, state, or foreign regulatory body.

Where requirements are not within the above limitations, NASA installations are authorized to enter into general purpose contracts. For administrative communications services, the Office of Space Tracking and Data Systems will coordinate with the General Services Administration and two copies of such contracts will be furnished. For operational communications services, a single copy of the contract will be furnished.

(f) All NASA installations requiring special purpose communications services contracts will submit a written request for the services to the Office of Space Tracking and Data Systems (Code TS) where:

(i) an area-wide contract is not available;

(ii) an area-wide contract exists but requirements are for non-standard or special services involving recurring charges in excess of $500,000 annually, or non-recurring or termination liability charges in excess of $150,000;

(iii) it involves new rate centers; or

(iv) it involves the filing and approval of new tariffs.

Where requirements are not within the above limitations, NASA installations are authorized to enter into special purpose contracts. For administrative communications services, the Office of Space Tracking and Data Systems will coordinate with the General Services Administration and two copies of such contracts will be furnished. For operational communications only one copy will be furnished.

4.5004–2 Utilities Except Communications.

(a) Except as provided in paragraph (c) below, the contracting officer shall submit a Utility Service Narrative for proposed procurements for new utilities services, renegotiations or extensions of existing utility services, or existing contracts that require a negotiation for change of rate schedules, to the Office of Procurement (Code HS–1), NASA Headquarters, prior to initiating negotiation procedures. The Utility Service Narrative shall include:

(i) brief technical description of the service required or being furnished;

(ii) reasonableness of the proposed rate and/or the monetary extent of the rate change compared to the last typical year of service;

(iii) description outline of the field installation's proposed negotiation tactics, basis for position, and any alternate position;

(iv) an estimate of the annual cost of service; and

(v) other related items, as applicable, such as: connection charges, termination liability, facilities charges, requirement for Government capital costs, or any other unusual factors affecting the procurement.

(b) The Office of Procurement (Code HS–1), with the coordination of the Facilities Division (Code BX–9), NASA Headquarters, will review the information submitted in accordance with subparagraph (a) above. If NASA Headquarters participation in the negotiation proceedings in an advisory capacity to the contracting officer, is considered desirable, the Office of Procurement (Code HS–1), NASA Headquarters, will inform the contracting officer not later than 30 calendar days from the receipt of the Utility Service Narrative.

(c) The requirements of subparagraph (a) are not applicable when:

(i) the estimated annual cost of the services to be procured is $500,000 or less for electrical service; or $250,000 or less for other utilities services; or

(ii) the proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to be $50,000 or less.

4.5005 Contract Requirements.

4.5005–1 Procurement Without Contract.

(a) Utility services may be procured without a written contract when all the following conditions apply:

(i) the services are to be furnished at rates, terms, and conditions based on an established rate schedule approved by a Federal, State, or other public regulatory body;

(ii) the estimated annual cost of the services to be procured is $10,000 or less;

(iii) a connection, termination, installation, or similar charge, or a deposit other than a meter deposit required of all customers, is not involved, or if involved, the total cost thereof does not exceed $5,000;

(iv) the utility supplier does not require the execution of a contract or application form; and

(v) it is not deemed advantageous to the Government to negotiate and execute a contract.

4.5005–2 Memorandum of Understanding. A memorandum of understanding, specifying the services to be provided and the conditions under which they will be supplied, shall be used when procuring utility services from another Government agency by

cross-servicing. A Utility Service Narrative shall be submitted in accordance with the provisions of 4.5004–2.

4.5005–3 GSA Area-wide Public Utility Contracts. Policies and procedures governing the procurement of utility services by use of General Services Administration area-wide public utility contracts are set forth in Part 5, Subpart 8.

4.5005–4 DoD Area-Wide Utilities and Communications Contracts. Policies and procedures governing the procurement of communications services by use of the DoD area-wide utilities and communications contracts are set forth in Part 5, Subpart 8.

4.5005–5 Negotiated Utility Services Contracts. When the conditions set forth in paragraphs 4.5005–1 through 4.5005–4 are not applicable to a proposed procurement of utility services, a separate contract may be negotiated using the contract clauses set forth in Part 7, Subpart 50, and the contract forms prescribed in Part 16, Subpart 5, except in that the contract forms are not applicable to contracts for communications services.

4.5006 Contracts Requiring Headquarters Approval. Contracts and supplemental agreements for utility services shall be submitted to the Office of Procurement, NASA Headquarters (Code HS–1) for approval in accordance with the Master Buy Plan procedures (20.5100).

4.5007 Headquarters Requirement for Copies of Contracts. Except for communication services, the contracting officer shall forward, promptly after execution, one copy of each contract, service authorization form, memorandum of understanding, or any modification thereto, to the Office of Procurement, NASA Headquarters (Code HS–1) and to the Facilities Division, NASA Headquarters (Code BX–9). Documents relating to utility services exempt under the provisions of 4.5004–2(c) need not be furnished.

4.5008 Changes in Rates.

(a) Except for communications services when the contractor furnishes written notice to the contracting officer of a filing of an application for rate changes, as provided for in the clause entitled "Public Regulation and Change of Rates" (7.5001–11), or whenever the contractor requests that rate changes be negotiated, as provided for in the clause entitled "Change of Rates," (7.5003–2), the contracting officer will notify the Office of Procurement, NASA Headquarters (Code HS–1) and the Facilities Division, NASA Headquarters (Code BX–9). If the rate change affects communications services, he will notify the Office of Space Tracking and Data Systems, NASA Headquarters (Code TS). The notification shall include sufficient information to permit a determination of the monetary effect of the proposed changes and a recommendation of action to be taken under paragraph (1) or (2) below, and the basis therefor.

(1) When a notice is received of a filing of an application for rate changes before the local regulatory body, the contracting officer will make a recommendation as to whether or not the Government should intervene in the hearing on the application. If it is recommended that the Government intervene in the hearing, the recommendation shall be accompanied by a statement setting forth the basis for such intervention and the extent to which the installation can support the intervention through the presentation of testimony, preparation of exhibits, and the furnishing of legal counsel.

(2) When a notice is received that the contractor requests that rate changes be negotiated, the contracting officer will make a recommendation as to the position to be taken by the Government with respect to the rate changes and the extent to which installation personnel are available to support this position.

(b) The Office of Procurement, NASA Headquarters, with the technical assistance of the Facilities Division, NASA Headquarters, for utilities other than communications, will furnish the contracting officer a recommendation concerning the proposed rate changes and the extent to which NASA Headquarters will participate in the intervention before the local regulatory body or in negotiations with the contractor. For proposed communication rate changes, the Office of Space Tracking and Data Systems, NASA Headquarters, will furnish the necessary guidance to the contracting officer. Prior to recommending any action concerning the proposed rate changes, the Office of Procurement, NASA Headquarters, will, as necessary, coordinate with other staff offices or divisions, or other Government agencies. The contracting officer shall await the recommendations of the Office of Procurement, NASA Headquarters, or the Office of Space Tracking and Data Systems, NASA Headquarters for at least 30 calendar days prior to taking any action concerning the proposed rate changes.

4.5009 Sales of Utility Services. Utility services may be sold under the conditions specified in the following paragraphs.

4.5009–1 Eligible Purchasers. The eligibility to buy utility services from a NASA installation is determined as follows:

(a) Any federal agency, mixed ownership (Government) corporation (as defined in the Government Corporation Control Act, 31 U.S.C. 856), or any bureau or office thereof, located at or in the immediate vicinity of a NASA installation is an eligible purchaser.

(b) The Office of Procurement, NASA Headquarters (Code HS–1) will determine the eligibility of all other prospective purchasers. Requests for furnishing utility services to other purchasers, together with complete justification, shall be forwarded to the Office of Procurement, NASA Headquarters (Code HS–1) for decision.

4.5009–2 Prerequisites. All of the following conditions must be met before an installation is authorized to enter into a specific agreement for the sale of utility services to an eligible purchaser:

(i) the sale will not disrupt present or contemplated service to the installation;

(ii) all modifications to existing facilities and installations of additional facilities required to provide service to the purchaser will be made at the purchaser's expense;

(iii) the rate charged to the purchaser will cover at least the increased cost to the installation of supplying the service and must also include burdens such as administrative expenses, maintenance and operation costs, component charges for any capital costs or repairs, and any other reasonable cost incurred as a result of providing the utility service.

(iv) the sale of utility services is not prohibited by the contract under which the installation purchases the services; and

(v) the sale of utility services is confined to sales for consumption, not for resale.

4.5009–3 Headquarters Participation in Negotiations.

(a) The contracting officer will notify the Office of Procurement, NASA Headquarters (Code HS–1) whenever it is desired to sell utility services.

(b) The Office of Procurement, NASA Headquarters (Code HS–1) will provide the necessary guidance to consummate the sale.

(c) Each proposed agreement shall be submitted to the Office of Procurement, NASA Headquarters (Code HS–1) for approval.

Part 5—Interdepartmental Procurement

7. In Part 5, Table of Contents, 5.850 is revised to read as follows:

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8. In Part 5, 5.800 through 5.850 are revised to read as follows:

5.800 Scope of Subpart. This Subpart prescribes policy and procedures for the procurement of certain utility services by use of General Services Administration (GSA) area-wide public utility contracts and Department of Defense (DOD) area-wide utilities and communications contracts.

5.801 General.

(a) The General Services Administration enters into indefinite delivery type area-wide contracts with various utility companies for the furnishing of electric, natural and manufactured gas distributed by pipes, steam sewage, water, telephone, and teletypewriter services to all, or substantially all, Government agencies located within specified areas. GSA area-wide public utility contracts provide that the contractor will, upon receipt of an order in the form prescribed by the contract, furnish without further negotiation as to rates and charges the services involved in accordance with such of his established and filed rate schedules as are applicable to the service.

(b) The Department of Defense enters into indefinite delivery type area-wide contracts with various communication companies for the furnishing of communications to all, or substantially all, Department of Defense installations. DOD area-wide communications contracts provide that the contractor will upon receipt of an order in the form prescribed by the contract, furnish, without further negotiations as to rates and charges, the service involved in accordance with such of his established and filed rate schedules as are applicable to the service. The DOD also enters into area-wide fuel oil and other energy service contracts.

5.802 Distribution of GSA Area-wide Public Utility Contracts and Related Publications. A list of the utility services obtainable under GSA area-wide public utility contracts, including the area served and the name of the contractor involved, is contained in GSA Circular No. 61. Revised. GSA also has available copies of the area-wide public utility contracts which include the required order form. Copies of GSA Circular No. 61 and GSA area-wide public utility contracts may be obtained, upon request, from General Services Administration, Transportation and Communication Service, Public Utilities Division, Washington, D.C., 20405.

5.803 Use of GSA Area-Wide Public Utility Contracts.

(a) Where GSA area-wide public utility contracts are adequate to meet the requirements of NASA installations for utility services, such services will be procured thereunder. In determining whether a GSA area-wide public utility contract is adequate to meet the requirements of the using installation, consideration should be given to (i) the area-wide contract rates viewed in light of the magnitude of the service required, (ii) any unusual characteristics of the service required, (iii) any special equipment or facility requirements, (iv) any special technical contract provisions required, and (v) any other special circumstances.

(b) Where an installation considers that a DOD area-wide communications contract is more advantageous to the Government than the GSA area-wide public utility contract, a request for a waiver of the requirement to use the GSA area-wide public utility contract will be submitted to the Office of Space Tracking and Data Systems (Code TS). The request will explain why the use of the DOD area-wide contract is considered to be more advantageous to the Government than the GSA area-wide contract.

(c) Where an installation considers that a separately negotiated contract is more advantageous to the Government than the GSA area-wide public utility contract, for a utility service other than communications, a request will be submitted to the Office of Procurement, NASA Headquarters (Code HS–1), for a waiver of the requirement to use the GSA area-wide public utility contract. The request shall explain why the separately negotiated contract is considered to be more advantageous to the Government than the area-wide contract.

(d) Where an installation considers that a separately negotiated contract for communications services is more advantageous to the Government than the GSA area-wide public utility contract or the DOD area-wide communications contract, a request for a waiver of the requirement to use the GSA contractor or the DOD contract (in that order) will be submitted to the Office of Space Tracking and Data Systems (Code TS). The request shall explain why the separately negotiated contract is considered to be more advantageous to the Government than either the GSA or DOD area-wide contracts.

5.804 Ordering Under GSA Area-Wide Public Utility Contracts. When utility services are procured under GSA area-wide public utility contracts, the method of ordering prescribed in the appropriate GSA area-wide contract will be used. The form prescribed for ordering may be modified to satisfy fiscal and administrative requirements of NASA, and to contain such additional contract provisions as may be contemplated or permitted by the GSA area-wide contract, except that it shall not be modified for use as a public voucher in lieu of Standard Form 1034.

5.850 Use of DOD Area-Wide Utilities and Communications Contracts. When the decision is made to procure communications or energy services under DOD area-wide contracts, *e.g.* in accordance with 5.803(b), the method of ordering prescribed in the appropriate DOD area-wide contract will be used. The form may be modified to satisfy fiscal and administrative requirements of NASA, and to contain such additional contract provisions as may be contemplated or permitted by the DOD area-wide contract, except that it shall not be modified for use as a public voucher in lieu of Standard Form 1034.

[FR Doc. 81-3726 Filed 2-2-81; 8:45 am]
BILLING CODE 7510-01-M

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41 CFR Ch. 18, Parts 3 and 20 and Appendix E

Procurement Regulation Directive 80-9 (Dated December 12, 1980) Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 80–9 concerning the following areas:

1. Determinations and Findings Below the Administrator Level.
2. Letter Contracts.
3. Price Negotiation Policies and Techniques.
4. Master Buy Plan Procedure.
5. Contract Financing (Progress Payments).

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202–755–2237.

SUPPLEMENTARY INFORMATION: The major changes are summarized as follows:

1. Part 3, 3.303(a)(ii) is revised to be consistent with 3.303(a)(iii). Paragraph 3.303(a)(iii) authorizes the contracting officer to make the determinations and findings for modifications to a contract which requires an increase in the

amount of advance payments provided that the work called for in the modification is within the scope of work set forth in the determination authorizing the advance payment under the basic contract.

2. Part 3, 3.408(d) is revised to insert a new subparagraph (vii) and renumber existing subparagraphs (vii) through (x) accordingly. Additionally, paragraph 3.408(e) is revised to insert a new subparagraph (v) and renumber existing subparagraph (v) to read (vi). These revisions are intended to ensure that requests for authority to issue letter contracts and modifications include information on performance periods for intitial letter contracts and letter contract modifications. Failure to provide this information delays the processing of these requests.

3. Part 3, 3.807–8(a), "Forward Pricing Rate Agreements", is revised to delete "Department of Defense Administrative Contracting Officer" and add "contract administration office" and spell out the acronym ACO.

4. Part 20, 20.5105 is revised to establish procedures for processing at the installation level procurement documents that are not selected for Headquarters review and approval. This revision is intended to ensure that there are appropriate review and approval requirements for all procurement actions that are subject to the Master Buy Plan Procedure.

5. Appendix E.503–1 through E.503–3, and E.511–2 through E.511–4 are revised to delete previous paragraph E.503–1 "Uniform Standard Percentages Contracts Existing Before April 1, 1968;" revise the text under previous paragraph E.503–2 "Uniform Standard Percentages Contracts made on or after April 1, 1968" and designate the revised paragraph as E.503–1 "Uniform Standard Percentages." Additionally, references to "new" contracts and "on or about April 1, 1968 (E.503–2)" are deleted in paragraph E.511–2, E.511–3 and E.511–4. These revisions are intended to eliminate unnecessary wordage and make the subject matter easier to understand.

Authority: The provisions of this document are issued under 42 U.S.C. 2473(c)(1).

Stuart J. Evans,

Director of Procurement.

Part 3—Price Negotiation Policies and Techniques

1. In Part 3, 3.303(a)(ii) is revised to read as follows:

3.303 Determinations and Findings Below the Administrator Level.

(a) * * *

(ii) for the basic contract and for modifications to a contract which require an increase in the amount of advance payments, the determination required by 10 U.S.C. 2307(c) and 2310(b); *provided* that the work called for in the modification is not within the scope of work set forth in the determination authorizing the advance payment under the basic contract.

* * * * *

2. In Part 3, 3.408(d) (vii) through (x) are redesignated (viii) through (xi) and a new (vii) is added to read as follows:

3.408 Letter Contract.

(d) * * *

(vii) performance period of letter contract;

* * * * *

3. In Part 3, 3.408(e)(v) is redesignated (vi) and a new (v) is added to read as follows:

3.408 Letter Contract.

(e) * * *

(v) performance period of modification; and

* * * * *

4. In Part 3, 3.807–8, the first and second sentences of paragraph (a) are revised to read as follows:

3.807–8 Forward Pricing Rate Agreements (FPRA's).

(a) FPRA's shall be negotiated by the cognizant contract administration office on its own initiative, on the request of the contracting officer, or on request of the contractor. In determining whether or not to establish such an agreement, the Administrative Contracting Officer (ACO) should consider whether the benefits to be derived from the existence of the agreement are commensurate with the effort necessary to establish and monitor it. * * *

* * * * *

Part 20—Administrative Policies and Procedures

5. In Part 20, 20.5105 is revised to read as follows:

20.5105 Procedures for Procurements not Selected for Headquarters Review and Approval.

(a) Procurements which are not selected for Headquarters review and approval shall be processed at the installation level. For such procurements, the following documents, to the extent applicable, shall be approved by the Head of the installation: procurement plans, justifications for noncompetitive procurements, and prenegotiation positions. If the procurement is subject to the Source Evaluation Board Manual, the Head of the installation shall sign the source evaluation board appointment letter and shall be the Source Selection Official. For those installations whose monetary limitation under the Master Buy Plan Procedure is $2,500,000, if the procurement is between $2,500,000 and $5,000,000 and is, therefore, not subject to the Source Evaluation Board Manual, the Head of the installation shall be the Source Selection Official and may redelegate this authority to cognizant management officials. The Head of the installation may redelegate the authority to approve procurement plans and justifications for noncompetitive procurements and to sign source evaluation board appointment letters to his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for . . .). The Head of the installation may redelegate the authority to approve prenegotiation positions to the level of his Procurement Officer. If the procurement is subject to the Source Evaluation Board Manual, the request for proposals shall be reviewed and approved in accordance with paragraph 403 of that manual. In all other procurements, requests for proposals shall be approved as directed by the Procurement Officer, commensurate with the sensitivity or significance of the pfocurements. Contracts (including supplemental agreements) and leases that are not selected for Headquarters review and approval under the Master Buy Plan procedure, shall be approved by the Procurement Officer. The signing of those documents by the Procurement Officer, as the contracting officer, constitutes such approval. The approvals set forth above, may not be further redelegated.

(b) Procurements that are authorized to be processed at the installation level will be subject to after-the-fact reviews by Headquarters personnel during normal procurement surveys or as the situation may otherwise indicate, through special reviews.

Appendix E—Contract Financing

6. In Appendix E, Table of Contents, the titles in E.503–1 through E.503–4 are revised to read as follows:

* * * * *

* * * * *

7. In Appendix E, E.503–1 is deleted and E.503–2 is redesignated E.503–1 and is further revised to read as follows:

E.503–1 Uniform Standard Percentages. The uniform standard progress payment rate is 80 percent of

total costs for firms which are not small business concerns, and 85 percent of total costs for small business concerns. This 85 percent rate applies to all contracts awarded to small business concerns, whether or not awarded pursuant to formal advertising. Higher percentages will be regarded as unusual (E.505) and not within the category of customary progress payments. No percentage higher than the uniform standard progress payment rate may be offered by or in connection with any solicitation for a bid or proposal unless such higher percentage has had prior approval in conformity with the standards and procedures of E.505 for unusual progress payments.

E.503–3 and E.503–4 [Amended]

8. In Appendix E, E.503–3 and E.503–4 are amended by redesignating the paragraph numbers to read E.503–2 and E.503–3 respectively.

9. In Appendix E, E.511–2, E.511–3 and E.511–4 are amended by deleting the words "new" and "on or after April 1, 1968 (E.503–2)" in the first sentence of each paragraph.

[FR Doc. 81-3725 Filed 2-2-81; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

Grazing Administration and Trespass on Public Lands; Amendments to Grazing Regulations

Correction

In FR Doc. 81–2397 appearing on page 7350, in the issue of Friday, January 23, 1981, make the following correction.

The last sentence of the document reading, "Therefore, it is in the national interest that these amendments be effective January 23, 1981." should have read: "Therefore, it is in the national interest that these amendments be effective upon publication.".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1270–A]

The Chesapeake and Ohio Railway Company Authorized To Operate Over Tracks Abandoned by Grand Trunk Western Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1270–A.

SUMMARY: This order vacates Service Order No. 1270, which permitted The Chesapeake and Ohio Railway Company to operate over tracks abandoned by Grand Trunk Western Railroad Company, due to the acquisition of this trackage by The Chesapeake and Ohio Railway Company has been consummated, pursuant to F.D. 29299.

EFFECTIVE: 11:59 p.m., January 30, 1981.

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

Decided: January 28, 1981.

Upon further consideration of Service Order No. 1270 (42 FR 38379; 43 FR 2725, 36639; 44 FR 3716 and 42696), and good cause appearing therefor:

It is ordered, § 1033.1270 *The Chesapeake and Ohio Railway Company authorized to operate over tracks abandoned by Grand Trunk Western Railroad Company,* Service Order No. 1270 is vacated effective 11:59 p.m., January 30, 1981.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3736 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Export and Substitution Restrictions

AGENCY: Forest Service, USDA.

ACTION: Deferral of effective date of final rule.

SUMMARY: The scheduled effective date of revised regulations on the export of timber from National Forest Systems and the use of such timber in substitution for private timber which is exported by a purchaser was February 3, 1981. Pursuant to President Reagan's memorandum of January 29, 1981, on postponement of pending regulations, the effective date of these regulations is being deferred until March 30, 1981.

EFFECTIVE DATE: Deferred until March 30, 1981.

FOR FURTHER INFORMATION CONTACT: George M. Leonard, Timber Management Staff (Rm. 3209-South Bldg.), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, Telephone: 202–447–4051.

SUPPLEMENTARY INFORMATION: On December 5, 1980, a final rule was published at 45 FR 80526 on export and substitution restrictions for National Forest timber sales. This document was corrected on January 12, 1981, at 46 FR 2611. The effective date for this final rule was to be February 3, 1981. However, in accordance with President Reagan's moratorium on the issuance of final rules, the effective date is being deferred.

(Sec. 14, Pub. L. 94–588; 90 Stat. 2958, as amended; (16 U.S.C. 472a); Sec. 301, Pub. L. 96–126, 93 Stat. 979; Sec. 1, 30 Stat. 35, as amended, (16 U.S.C. 55.1))

Douglas Leisz,

Acting Deputy Assistant Secretary for Natural Resources and Environment

February 2, 1981.

[FR Doc. 81-4187 Filed 2-2-81; 12:16 pm]

BILLING CODE 3410-11-M

Proposed Rules

Federal Register
Vol. 46, No. 22
Tuesday, February 3, 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

Rural Electrification Administration

7 CFR Part 1701

Adoption of the 1981 Edition of the National Electrical Safety Code—ANSI C2; Proposed Revision of REA Bulletin 40-7

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the Rural Electrification Administration (REA) proposes to revise REA Bulletin 40-7, National Electrical Safety Code—ANSI C2, 1977 Edition, issued April 29, 1977. The proposed revision of this bulletin would change the standards to which all REA-financed construction must comply from the provisions of the 1977 edition of the National Electrical Safety Code to the 1981 edition.

DATE: Public comments must be received by REA no later than April 3, 1981.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director, Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Dedman, telephone (202) 447-7040. A Draft Impact Analysis has been prepared and is available from the Director, Engineering Standards Division, at the above address.

SUPPLEMENTARY INFORMATION: A copy of the proposed bulletin may be secured in person or by written request from the Director, Engineering Standards Division. The proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should be classified "not significant" under those criteria. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: January 26, 1981.

Joseph Vellone,
Acting Administrator.

[FR Doc. 81-3623 Filed 2-2-81; 8:45 am]
BILLING CODE 3410-15-M

Food Safety and Quality Service

7 CFR Part 2851

Proposed Shelled Peanut Standards: Solicitation of Information

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Solicitation of Information.

SUMMARY: The Food Safety and Quality Service is seeking information from all interested members of the public to advise on several technical points of disagreement concerning the proposed U.S. Standards for Grades of Shelled Peanuts. Following publication of the proposed rule in the Federal Register on December 14, 1979, the Agency received comments from major industry associations, particularly shellers and processors, objecting to several points in the proposed standards. Prior to deciding whether to proceed to final rule or withdraw the proposal, the Agency will consider all comments in response to this notice.

DATE: Comments and information must be received on or before March 5, 1981.

ADDRESS: Written comments to: Regulations Coordination Division, ATTN: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, D.C. 20250. (For additional information on comments, see Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Michael A. Canon, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2093.

SUPPLEMENTARY INFORMATION:

Significance

The proposed rule has been reviewed under the USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Comments

Interested persons are invited to submit comments and information concerning this notice. Written comments must be sent in duplicate to the Regulations Coordination Division and should bear reference to the date and page number of this issue of the Federal Register. All comments submitted under this notice will be made available for public inspection in the office of the Regulations Coordination Division during regular business hours.

Background

On December 14, 1979, the Agency published in the Federal Register (44 FR 72599—72602), a proposed rule, U.S. Standards for Grades of Shelled Peanuts. This publication, which was widely disseminated throughout the peanut industry, proposed combining the three current U.S. grade standards for shelled Virginia, Runner, and Spanish type peanuts into a single U.S. Standard for Grades of Shelled Peanuts.

The Southeastern Peanut Association, the Southwestern Peanut Shellers Association, and the Virginia-Carolina Peanut Association requested revision to bring the standards in line with current marketing practices and to promote uniformity of requirements in the standards. The proposed U.S. grade standards provide additional kernel size classifications and changes in various tolerances for split kernels, kernel defects, undersize and oversize kernels, and grades to be used in export trading. The proposed standards would apply to shelled peanuts in the raw state, prior to final processing into food products. Standards used only as a basis for trading before processing are exempt from the requirements of the uniform grade nomenclature policy. These grades do not carry through to the consumer.

Comments received by the Agency concerning the proposed U.S. Standards for Grades of Shelled Peanuts have been reviewed and evaluated. Several provisions in the proposed U.S. grade standards lack industry agreement.

Therefore, the proposed U.S. grade standards need further examination and comment from growers, shellers and end-users, such as nut salters and peanut butter manufacturers, before Agency officials decide whether to proceed to final rule or withdraw the proposal. The major points of disagreement, taken from public comments received in the Regulations Coordination Division are described below.

Tolerance for Oversize Kernels

It is recognized that errors in shelling and handling peanuts occur, and even the most up-to-date quality control measures cannot economically or efficiently remove all defects. Tolerances are provided in the form of percentages to allow for errors incidental to proper handling and processing. Peanuts are collected as "lots" for storage, shipping and processing and usually consist of several thousand pounds. Peanut kernel quality is determined by analyzing a sample representative of the lot; the results are reported as percentages on an official USDA certificate.

A tolerance for oversize kernels provides more uniformly-sized peanut kernels within a lot by specifying a maximum kernel size in addition to the minimum size. A 25 percent tolerance for oversize kernels was proposed for U.S. Medium, U.S. Select and U.S. No. 1 Runner grades. Proctor and Gamble Company, a candy and peanut butter manufacturer, endorsed the need for uniform kernel size, but considered the proposed 25 percent tolerance to be excessive, and requested a 10 percent tolerance for oversize kernels. One sheller organization requested that all tolerances for oversize kernels be eliminated. This Agency proposes reducing the tolerance for oversize kernels from the current proposal of 25 to 15 percent, and requests public comments on this alternative.

Tolerances for Damage

The proposed standards include a 2.00 percent tolerance for all kernel defects and within this amount is a tolerance of 1.25 percent for damaged kernels. Defects are generally classified as "minor" if only affecting appearance, and "damage" when more severe. The 2.00 percent total defects tolerance applies to all U.S. No. 1 or better grades of peanuts except for U.S. Extra Large Virginia grade, which has a tolerance of 1.75 percent for total defects, including 1.00 percent for damaged kernels.

A sheller organization and several growers protested the 1.75 percent total kernel defect tolerance in the U.S. Extra Large Virginia grade as compared to the 2.00 percent defect tolerance permitted for the U.S. Jumbo Runner grade. They requested uniform tolerances for similar grades to bring other grades in line with the tolerances for U.S. Extra Large grade. The Peanut Butter and Nut Processors Association also request that the proposed total defects tolerance be lowered from 2.00 to 1.75 percent and the damage tolerance be lowered from 1.25 to 1.00 percent. They cited consumer benefits and industry technological progress in removing kernel defects as reasons to lower the tolerances. This Agency proposes to reduce the damage tolerance from 1.25 to 1.00 percent in all U.S. No. 1 and better grades. The total defects tolerance would remain 2.00 percent. This would achieve uniformity among these grades and benefit consumers with a better product.

Split or Broken Kernels

The proposed tolerance for sound split or broken kernels is 4.00 percent, an increase from 3.00 percent in the current U.S. standards. Peanut kernels, without defects, that have broken into halves or pieces are classified as "sound split or broken" kernels. These have less market value; therefore, a tolerance is provided to prevent large amounts from being included in whole kernel lots.

The shellers requested an increase from 3.00 to 4.00 percent in the tolerance resulting from incidences of sound kernels splitting during normal shelling and processing. The Peanut Butter and Nut Processors requested that the tolerance remain at 3.00 percent, citing the low value of these kernel halves and pieces.

This Agency proposes reducing the proposed tolerance from 4.00 to 3.50 percent.

Export Grades

Shelled peanuts are normally marketed in this country on the basis of kernel size; however, foreign buyers purchase on the basis of the number of kernels per ounce or pound. U.S. grades applicable to lots for export are proposed that have the same quality and size requirements as the domestic U.S. No. 1 grades, but in addition to meeting the minimum kernel size, the size must be stated in count per pound or ounce. U.S. grades, both for export and domestic markets, have the same minimum kernel size which is determined by passing kernels through a sizing screen.

Two sheller organizations and several grower groups commented that the "export" grades represented a lowering of quality levels and would jeopardize sales to foreign markets. Industry's comments indicate a misunderstanding of the proposed export grades, as the quality and minimum size requirements for export are identical to U.S. No. 1 grade requirements except kernel count would be specified.

The Agency proposes removing the "export" designations. Instead, count per pound or ounce could be specified in connection with any U.S No. 1 or better grade. Kernel size requirements and minimum diameters would remain unchanged; however, exporters would have the flexibility to market shelled peanuts on a kernel count basis without an "export" grade designation.

Undersize Tolerances

The proposed standards would provide several new size categories requested for Runner type peanuts, including U.S. Jumbo and U.S. Medium Runner type peanuts. The tolerance for undersize kernels in the U.S. Jumbo Runner grade is 5.00 percent, including not more than 3.00 percent which pass through an $^{19}/_{64}$ x ¾ inch sizing screen.

Peanut kernels are sized by metal screens having ¾ inch slotted openings of a specified width such as $^{21}/_{64}$, $^{18}/_{64}$, or $^{16}/_{64}$ inches. The double tiered tolerance for undersize includes a provision for kernels smaller than $^{21}/_{64}$ inches in diameter and kernels smaller than $^{18}/_{64}$ inches in diameter. This provision was made at industry request due to difficulties experienced in processing large size kernels accurately and to provide more uniform kernel sizes for Runner type peanuts.

One sheller ogranization objected to the additional 2.00 percent undersize tolerances for medium and jumbo size classifications of Runner type peanuts, and urged uniformity within the standards. The Agency proposes lowering the undersize tolerance for U.S. Jumbo Runner and U.S. Medium Runner type peanuts from 5.00 to 3.00 percent to promote uniformity within the standards. This action would make the size tolerances for the three types of peanuts the same.

Foreign Material

The tolerance for pieces or loose particles of any substance other than peanut kernels or skins (foreign material) is 0.1 percent in the present standards. The Peanut Butter and Nut Processors Association presented data on foreign material levels occurring in shelled peanut shipments. They requested that the current 0.1 percent tolerance be lowered to 0.05 percent. They also requested that the number of pieces of foreign material be reported on

the inspection certificate representing the peanut shipment.

Discussions with USDA research personnel concerning foreign material indicates modern technology has not progressed to a point where a lower tolerance could be met by peanut shellers. A tolerance of 0.05 percent is considered overly restrictive for shellers.

The Agency proposes to leave the tolerance unchanged at 0.1 percent. However, the number of pieces of foreign material found during the sample analysis would be recorded on the inspection certificate.

U.S. Jumbo Spanish

The proposed standards do not include a U.S. grade for jumbo size Spanish peanuts. The Peanut Butter and Nut Processors, as well as peanut brokers, pointed out in comments to the Agency that USDA Market News quotes trading information on "Jumbo Spanish" peanuts. The shelled peanut industry lacks a definition of "Jumbo Spanish." A U.S. Jumbo Spanish grade is proposed to promote uniformity in marketing. All quality requirements would be consistent with the U.S. No. 1 Spanish grade. The minimum kernel size would be $^{18}/_{64}$ inches determined by sizing with a screen having openings $^{18}/_{64}$ x $^{3}/_{4}$ inches.

A brief summary of the areas lacking agreement are listed below with a summary of preferences and the alternative the Agency proposes.

	FSQS proposed rule	Industry recommendations	FSQS alternate proposal
Oversize Tolerance:			
U.S. Medium Runner	25 pct	None, 10 pct, 25 pct	15 pct.
U.S. Select Runner	25 pct	None, 10 pct, 25 pct	15 pct.
U.S. No. 1 Standard Runner	25 pct	None, 10 pct, 25, pct	15 pct.
Damage Tolerance:			
U.S. No. 1 and better grades, Runner, Spanish and Virginia.	1.25 pct	1.00 pct	1.00 pct.
Total Defects (including "damage" and "minor defects").	2.00 pct	1.75 pct, 2.00 pct	2.00 pct.
Tolerance for Split or Broken Kernels: U.S. No. 1 and better grades, Runner, Spanish, Virginia.	4.00 pct	3.00 pct, 4.00 pct	3.50 pct.
Export Grades	U.S. No. 1 Export, Runner, Spanish and Virginia.	Delete	Export designation dropped—kernel count provision made.
Undersize Tolerance:			
U.S. Jumbo Runner	5.00 pct	3.00 pct	3.00 pct.
U.S. Medium Runner	5.00 pct	3.00 pct	3.00 pct.
Foreign Material Tolerance: All U.S. No. 1 and better grades (Runner, Spanish and Virginia).	0.1 pct	(1) 0.5 pct (2) Report number of pieces.	0.1 pct. Report number of pieces.
U.S. Jumbo Spanish: Same basis as U.S. No. 1 Spanish except $^{18}/_{64}$ x $^{3}/_{4}$ inch size.	Not proposed	Requested	U.S. Jumbo Spanish.

The Administrator believes that there may be other viewpoints on these specific issues and that there may be other aspects in the proposed standards which are of concern to the public. Therefore, before deciding whether to propose any modifications of the present standards, the Administrator requests that interested parties present their view(s) on the proposed rule.

Done at Washington, D.C., on January 29, 1981.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 81-3945 Filed 2-2-81, 8:45 am]

BILLING CODE 3410-DM-M

9 CFR Parts 318 and 381

Accredited Laboratory Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On November 7, 1980, the Department published a proposal to amend the Federal meat and poultry products inspection regulations to establish standards and procedures for the accreditation of non-USDA laboratories used to analyze official meat and poultry samples. In response to a request for additional time for commenting on the proposal, the Department's Food Safety and Quality Service is reopening the comment period for 30 days.

DATE: Comments must be received on or before March 5, 1981.

ADDRESS: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments regarding poultry products inspection regulations to Mr. H. J. Barth, (202) 447-5850.

FOR FURTHER INFORMATION CONTACT: Mr. H. J. Barth, Staff Officer, Chemistry Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5850. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

The proposal was received under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and was classified "significant."

Background

On November 7, 1980, the Department published a proposed rule (45 FR 73947) to amend the Federal meat and poultry products inspection regulations by establishing standards and procedures for the accreditation of non-USDA laboratories to analyze official meat and poultry samples for (1) residue of particular chemicals, or classes of chemicals, and (2) protein, moisture, fat and salt content. It appears that a permanent program adopting standards and procedures for accreditation of non-USDA laboratories would provide an equitable and efficient method for meeting the increased usage demand for testing facilities.

The Department's Food Safety and Quality Service received a request from the American Meat Institute to reopen the comment period to allow additional time to study the proposal and submit comments. The Agency is interested in receiving additional data on this proposal and has determined that there is sufficient justification for reopening the comment period for 30 days.

Done at Washington, DC, on January 29, 1981.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 81-3946 Filed 2-2-81; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-29]

Electric Utilities; Supplement to Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of supplement to petition for rulemaking PRM-50-29.

SUMMARY: The Nuclear Regulatory Commission has received a supplement to the petition for rulemaking filed by Electric Utilities concerning an Unresolved Safety Issue, Anticipated Transient Without Scram (ATWS). The supplement, which is dated January 5, 1981, contains a proposed appendix to 10 CFR Part 50 which the petitioner asks the Commission to consider in connection with its petition, PRM-50-29, which was published in the Federal Register for comment on November 4, 1980 (45 FR 73080). The petitioner's proposed appendix addresses the issue of Criteria for Evaluation of Scram Discharge Volume Systems for Boiling Water Reactors.

ADDRESSES: Copies of the supplement and the petition for rulemaking, PRM-50-29, are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of both documents may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7211.

Dated at Washington, D.C., this 28th day of January 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-3929 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Challenges to Certification of Eligibility by Interested Companies Pursuant to Section 8(d) of the Small Business Act

AGENCY: Small Business Administration.

ACTION: Proposed rules.

SUMMARY: These proposed rules and regulations set forth standards and procedures for challenges by third parties and government prime contractors to certification of eligibility by interested companies pursuant to section 8(d) of the Small Business Act.

DATES: These rules are hereby published in proposed form. The public is welcome to comment upon them by April 6, 1981.

ADDRESS: Comments should be submitted in duplicate to the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, 1441 L Street, N.W., Room 317, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Berkeley Boyd, Office of Minority Small Business and Capital Ownership Development, 1441 L. Street, N.W., Washington, D.C. 20416, Phone: (202) 653-6549.

SUPPLEMENTARY INFORMATION: Pursuant to section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), the Administrator for SBA is authorized to make such rules and regulations as he deems necessary to carry out the authority vested in him pursuant to the Small Business Act. Accordingly, the following amendments to Part 124 of 13 CFR are hereby published in proposed form.

Public comments upon these proposals will be accepted and evaluated, and certain SBA rules and regulations will be amended thereafter in order to carry out the provisions of the Small Business Act to which they relate.

Dated: January 6, 1981.

A. Vernon Weaver,

Administrator.

It is proposed to add new § 124.4-1 to read as set forth below:

§ 124.4-1 Section 8(d) eligibility challenges.

(a) General. These regulations apply in the case of a challenge concerning the eligibility of a small business to participate in SBA's subcontracting program on the basis of its eligibility as a socially and economically disadvantaged owned firm.

(b) For purposes of qualifying as a socially and economically disadvantaged business owner(s) under the subcontracting program, SBA will presume members of the following groups are socially and economically disadvantaged. The groups are Black Americans; Hispanic Americans; Native Americans; Asian Pacific Americans; other groups identified by SBA, and any individual(s) who has been determined by SBA to be socially and economically disadvantaged under the section 8(a) Program.

(c) An interested party challenging a small business' eligibility to participate in the 8(b) subcontracting program, on the grounds that the business is not owned and controlled by socially and economically disadvantaged individual(s), will provide the SBA district office having jurisdiction over the geographical area where the challenged business has its principal place of business, with specific and relevant information to support its allegations. The eligibility determination will be based primarily on facts and allegations supplied by the parties to the SBA. If deemed necessary or appropriate, SBA may utilize other information in its files and may make inquiries including requests to the parties or other persons for additional specific information. The burden of establishing its social and economic disadvantaged status by submitting full information to SBA shall be upon the concern whose disadvantaged status is under consideration.

(d) Once the district office has received all of the information it requires, it will make a recommendation to the SBA regional office within 7 working days. The regional office will then review the district office recommendation within 5 working days of receipt and render a written decision. An interested party adversely affected by the regional office decision may appeal to the SBA Central Office 8(a) Eligibility Committee within 10 days of receipt of the decision. If the decision is appealed, the regional office will then forward the entire file to the 8(a) Eligibility Committee in the SBA Central Office. The Committee will make a recommendation to the Associate Administrator for Minority Small Business and Capital Ownership Development (AA/MSB&COD). The AA/MSB&COD will then render a final decision on the eligibility of the challenged business for participation in the section 8(d) Subcontracting Program. Once this final determination has been made there will be no right of appeal within the SBA organizational structure.

(e) Whenever a protest challenges the size status of an alleged small business, SBA will utilize the size procedures set forth in 13 CFR 121.3-5.

[FR Doc. 81-3883 Filed 2-2-81; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Improving Government Regulations; Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published to comply with the Federal Trade Commission Improvement Act of 1980, Pub. L. 96–252. Each item reflects each operating bureau's assessment of events that it expects will occur in the listed proceedings sometime during the coming year. No Commission determination on the need for or on the substance of a trade regulation rule or any other procedural option should be inferred from inclusions.

The views expressed in these entries are those of the FTC staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented when it considers each staff proposal.

Each agenda item is based on projected timing of future Commission action. Discovery of new information, changes in circumstances or in the law may alter the projected dates.

FOR FURTHER INFORMATION CONTACT: Richard C. Foster, Deputy Director for Operations, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3355.

Food Advertising

(39 FR 39842, Nov. 11, 1974; 40 FR 23086, May 28, 1975; 41 FR 8980, Mar. 2, 1976)

The Rule

The rule would promote accuracy in food advertising claims by standardizing certain terms and requiring disclosure of material information in the following areas: Natural food claims; energy and weight control claims; and fat, fatty acid, and cholesterol claims. Foods could be advertised as natural, if such foods contain no artificial or synthetic ingredients and are more than minimally processed. If a food has been more than minimally processed, it could nonetheless be advertised as natural, if either the processed ingredients or the processes themselves are disclosed. Additionally, natural foods could not be advertised as inherently superior simply because they are natural.

Advertisements making energy claims would have to disclose that the claim means that the food provides calories. Weight control claims would have to disclose the number of calories in a serving of the advertised food (unless the food meets FDA standards for a "low calorie" food).

Finally, the rule would deal with two types of fatty-acid and cholesterol claims: content claims, which simply state the content (*e.g.*, no cholesterol), and health-related claims which refer to heart or artery disease. As to content claims about cholesterol or fatty acids, the rule would require disclosure of either the amounts of the other dietary constituents thought to be related to heart and artery disease or, in broadcast media, a disclosure that the advertised food contains these other components and the label may be consulted for precise information.

As to health related claims, the rule would prohibit certain claims that are unsubstantiated or false. All remaining claims in this area may be made, so long as the advertisement discloses the existence of a scientific controversy concerning the relationship between fat and cholesterol in the diet and the risk of heart or artery disease.

The staff is presently writing a statement of basis and purpose and related documents.

Objectives

The rule is designed to ensure that consumers have accurate and reliable information on nutrition quality by preventing deception in food advertising. The "natural food" section is intended to remedy the deceptive use of the claim that a food is "natural". The energy section would prevent consumers from being misled into believing that something special in the food provides energy, when, in fact, it is the caloric content of the food which determines the energy it provides. Weight control claims would trigger a disclosure to consumers that would permit them to choose foods based on accurate information. Fatty acid and cholesterol claims would be limited to prevent deceptive claims relating to heart or artery disease. Advertisers would be prevented from deceptively overstating the health benefits of particular foods.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15, & 18, 15 U.S.C. 45, 52, 55 & 57(a).

Timing

Final Commission Action—March, 1981.

Responsible Person

Melvin H. Orlans, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. (202) 724–1529.

Amendment to Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses ("Holder-in-Due-Course Rule")

(16 CFR Part 433 (40 FR 53506, November 18, 1975))

The Amendment

The original rule, which took effect in May of 1976, requires sellers to ensure that credit contracts used in consumer installment sales and purchase money loans (loans made to finance a purchase from a seller with whom the lender has a working relationship directed at consumer sales) contain a provision which makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller.

The amendment would extend to creditors who make purchase money loans or purchase retail installment contracts the obligation to ensure that credit contracts contain the required provision. The amendment also would make a number of technical revisions in the rule, including:

1. The definition of "purchasing money loan" and certain associated terms would be clarified but the underlying meaning would not be changed.

2. The language of the required contract provision would be changed to make it more readable and to make explicit the idea that the provision only preserves claims and defenses related to the sale financed by the creditor contract. The legal meaning of the contract provision would not be changed.

3. Lenders would be permitted to add to the required contract provision a specified clause which frees them from liability for claims and defenses where a consumer tells them that loan proceeds will be spent at a seller with which they are affiliated, but actually spends the proceeds at a different, unaffiliated, seller.

4. The amendment would add a provision indicating that businesses violate the rule only if the violative actions are engaged in with actual or implied knowledge that they are prohibited by the rule.

5. The minimum size of type in which the required contract provision would have to be printed would be reduced, in order to lessen the amount of space the provision would take up on contract forms.

6. In credit contracts required by law to be in Spanish, a Spanish version of

the required contract provision would have to be used.

The staff is presently drafting a statement of basis and purpose and related documents.

Objectives

The underlying objective of the amendment is the same as that of the original rule—to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform as promised when consumer sales are financed by third party creditors or purchase money lenders.

The extension of compliance obligations to creditors is intended to encompass within the rule all parties to the practices covered by the rule. It should also enhance enforcement of the rule because in many transactions covered by the rule creditors play an important or even dominant rule in determining the content of contracts. The technical changes made in the rule by the amendment should make the rule easier for consumers and businesses to work with and understand.

Legal Authority

Federal Trade Commission Act sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Final Commission Action—March 1981.

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1100.

Used Motor Vehicles

(41 FR 1089, January 6, 1976)

The Rule

The rule would require dealers to post a window form on used cars sold to consumers which discloses, in plain language, information regarding the condition of certain mechanical systems (e.g., what defects are known to the dealer, which systems have passed any inspection), the warranty coverage offered (if any), certain other important information. The form would also inform consumers that oral promises are often legally unenforceable, and would explain the circumstances in which buyers lose the additional protection of implied warranties created by State law ("as is" sales).

The rule would leave to dealers the decision of whether to inspect, and, when inspecting, what inspection procedures to follow. A dealer could use any reasonable inspection procedure as long as a vehicle system marked "OK" meets standards set out in the rule. Dealers would be required to inspect before they could mark a system "OK".

The Commission tentatively adopted the rule on May 16, 1980, Commissioners Clanton and Pitofsky withholding their support. The rule then was published for further public comment. The staff is presently drafting a summary of the comments and its final recommendations.

Objectives

The rule is designed to define and prevent deceptive and unfair practices in the sale of used cars by dealers that may result in substantial consumer injury. These deceptive and unfair practices includes oral misrepresentations by dealers about the mechanical condition of used cars (e.g., false claims about condition, failures to disclose known defects, claims about condition made without a reasonable basis), and oral misrepresentations about warranty coverage (e.g., misrepresentation of the terms of a warranty, failures to disclose the meaning of warranties and warranty disclaimers prior to sale).

Legal Authority

Federal Trade Commission Act, sections 5 & 18, 15 U.S.C. 45 & 57(a)
Magnuson-Moss Warranty Act, section 109(b), 15 U.S.C. 2309(b)

Timing

Final Commision Action—March, 1981

Responsible Person

Suan Liss, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20480, (202) 523–1670.

Funeral Industry Practices

(40 FR 39901, August 29, 1975)

The Proposed Rule

In 1979 the Commission tentatively approved in substance a trade regulation rule to govern funeral industry practices. The proposed rule is substantially modified from the rule originally proposed in 1975. The Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252, placed certain limits upon the Commission's authority to regulate the funeral industry. According to Section 19 of the Act, the Commission may issue the funeral rule only to the extent that the rule mandates disclosure of fees or prices and prohibits or prevents: (1) Misrepresentations, (2) use of threats or boycotts, (3) conditioning the furnishing of any funeral goods or services to consumers upon the purchase by those consumers of other funeral goods or services, and (4) furnishing funeral goods or services for a fee without prior approval. The Act also requires that any revised rule limited in accordance with section 19 be published for public comment before the Commission makes a final determination on whether or not to adopt the rule.

In January 1981, the Commission published a revised version of the 1979 proposed rule. The proposed rule has the following central features:

1. Price disclosures—The rule would require that consumers be provided with itemized price lists (a general price list, casket price, and outer burial container price list) in the funeral home before entering into discussions about particular services or merchandise. It would also require that itemized price information be provided over the telephone upon request. Consumers also would have to be given a written statement listing charges for the services and merchandise they selected.

2. Misrepresentations—It would be a violation of the rule to misstate legal or cemetery requirements. Misrepresentations that funeral services or merchandise can preserve the body for extended periods of time would also be prohibited. Other misrepresentations banned by the rule would be claims that a casket is required for cremations and claims that cash advance items (items obtained from a third party) were being provided at cost when they were not. The rule would also require funeral providers to make certain disclosures to inform consumers whether goods and services such as embalming are required or not.

3. Unfair or Deceptive Practices—The rule as proposed would prohibit embalming without explicit prior permission from family members in ordinary circumstances, would prohibit persons covered by the rule from requiring caskets for cremation, and would require that they make alternative containers available.

4. Market Restraints—Use of group boycotts or threats to restrain competition within the funeral industry (such as competition by advertising prices or by providing alternative funeral arrangements) would be prohibited.

A revised rule has been published for public comment. Based on comments received, the Commission will consider further revisions, such as clarification of the definitions of "casket" and "alternative container," revisions to the casket-for-cremation provisions, and reevaluation of the need for the rule

provision prohibiting the use of threats or boycotts to restrain competition.

Objectives

The proposed funeral rule is intended to reduce the substantial injury to funeral purchasers resulting from inadequate access to price and other information needed in shopping for and purchasing those items which they believe best meet their individual needs, at the best price available. The project is also intended to reduce the extent to which providers may interfere with rational consumer choice by (1) misrepresenting the utility of and need for certain goods and services, (2) providing and then billing for services without asking for or receiving permission to provide them and (3) requiring consumers to purchase certain goods they neither want nor need. Finally, the rule attempts to reduce the extent to which providers, through group threats or boycotts, unlawfully interfere with the businesses of other providers who advertise or offer low cost or alternative forms of dispositions.

Legal Authority

Federal Trade Commission Act sections 5 and 18, 15 U.S.C. 45 and 57(a), as limited by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252, 94 Stat. 374, section 19.

Timing

Publication of revised rule for public comment and rebuttal—January, 1981.

Comment period ends—Sixty days after publication of the revised rule.

Rebuttal period ends—Twenty days after close of the comment period.

Oral presentation before the Commission—thirty days after close of rebuttal period.

Final Commission action—June, 1981.

Responsible Person

Robert A.M. Schick, Program Advisor, Federal Trade Commission, Room 263, 6th and Pennsylvania Ave., NW., Washington, DC 20580, (202) 523–3885.

Amendment to Care Labeling of Textile Wearing Apparel Rule, 16 CFR Part 423

(41 FR 3747, January 26, 1976)

The Proposed Amendment

An existing rule, effective since July, 1972, requires that all consumers' wearing apparel and piece goods used to make wearing apparel contain a "care label" which informs consumers about proper procedures for such things as cleaning, drying, and ironing.

The amendments that were proposed would extend the rule to cover all textile products including carpets and rugs. upholstered furniture, yarns and linens. The amendments would also require a more complete statement of the care procedure, the use of standardized care terminology and the establishment of a basis of accuracy for each care procedure prescribed in a label.

Objective

The rule and its amendment seek to inform consumers what care procedures should be used to make certain that the utility and appearance of purchased textile products will not be impaired. In addition, the information thus made available would permit an informed choice among competing products.

Legal authority

Federal Trade Commission Act sections 5 & 18, 15 U.S.C. 45 & 57 (a).

Timing

Publication of revised proposed amendments for technical comments—January 2, 1981.

Public Comment—February 2, 1981.

Final Commission Action—March, 1981.

Responsible Person

Earl Johnson, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202)724–1362.

Proprietary Vocational and Home Study School

(39 FR 39385, August 15, 1974); Final Rule published (43 FR 60796, December 28, 1978); set aside and remanded by Court of Appeals in *Katharine Gibbs (School), Inc. v. FTC, 612 F. 2d. 658 (2d Cir. 1979)).*

The Rule

The Rule as originally issued required Proprietary Vocational and Home Study Schools to provide pro rata refunds to students who withdraw from their courses; to provide information to prospective students concerning the schools' graduation and placement records and to provide an initial fourteen day cooling-off period in which students can cancel their enrollment contracts and receive full refunds. The Court of Appeals expressed disagreement with the breadth of the pro rata refund requirement and the manner in which the Rule required disclosure of placement and earnings information. The Court also found the Rule to be procedurally deficient for not specifying the unfair or deceptive trade practices the Rule seeks to prevent.

The Commission is presently considering staff's recomendations in the remanded proceedings.

Objectives

The Rule's objectives are to create economic incentives for schools to avoid abusive sales practices, to prevent deception by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act sections 5 & 18, 15 U.S.C. 45 & 57 (a).

Timing

Republish rule, revised to respond to Court of Apeals order of remand—February, 1981.

Public comment—After publication of proposed revised rule.

Final Commission Action—August, 1981.

Responsible Person

Walter C., Gross III, Division of Marketing Abuses, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. (202) 523–3911.

Over-the-Counter Drugs

(40 FR 52631, Nov. 11, 1975)

The Proposed Rule

The proposed rule is directly linked to regulations affecting labeling for OTC (non-prescription) drugs that will result from the Food and Drug Administration's comprehensive review of the safety and efficacy of those drugs. The proposed FTC rule would prohibit claims in advertising for OTC drugs that would be prohibited by FDA in labels or labeling for those same drugs. The rule would also require that, where FDA limits certain types of claims to specific approved language on the label, only the FDA approved terminology be used in making those claims in advertising.

The Commission is presently considering final staff recommendations.

Objectives

The objective of the rule is to prevent inconsistency between claims in advertising and labeling and to avoid the use of advertising claims that may limit the effectiveness of FDA's review program for OTC drugs, and thereby to prevent deceptive claims for OTC drugs in advertising.

Legal Authority

Federal Trade Commission Act. sections 5, 12, 15 and 18, U.S.C. 45, 52 and 57(a).

Timing

Final Staff Recommendation to the Commission—December, 1980.
Oral Presentation to the Commission—January 28, 1981.
Commission Consideration of Rule—February, 1981.

Responsible Person

Joel Brewer, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1530.

Hearing Aids

(40 FR 26646, June 24, 1975)

The Proposed Rule

The proposed regulation currently under consideration would afford hearing aid purchasers a right to cancel the transaction within 30 days of purchase subject only to reasonable service charges. In addition, the proposal would prohibit advertising claims that a hearing aid will halt or retard hearing loss or that it will restore normal hearing.

The staff is analyzing the rulemaking record for further consideration by the Commission.

Objectives

The purpose of this proposal is to prevent deceptive and unfair sales practices in the sale of hearing aids and to give consumers contractual remedies against the risk that the device will provide no significant benefit to the user.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15 and 18, 15 U.S.C. 45, 55 and 57(a).

Timing

Commission Consideration of Staff Analysis—April, 1981
Final Commission Action—May, 1981

Responsible Person

W. Benjamin Fisherow, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1511.

Protein Supplements

(40 FR 41144, September 5, 1975)

The Proposed Rule

The proposed rule addresses the advertising and labeling of protein supplements in three ways. First, there are provisions designed to inform consumers of certain health hazards. Thus, for example, a labeling disclosure would be a required warning against use for infants. Second, the rule would prohibit certain false or deceptive claims, such as the claim that use of a protein supplement can counteract or delay the signs of aging. Third, the rule as presently proposed would require a general disclosure in the advertising and labeling of these products to the effect that most Americans receive all the protein they need from the food they eat. Public comments on the staff and presiding officer's reports are now being analyzed by the staff.

Objectives

The proposed rule was developed to limit misrepresentations in advertising and labeling and to provide information that some of these products may be inappropriate or hazardous for certain uses (e.g., for infants). The rule was also proposed to remedy misrepresentations about the need for dietary protein supplements to the typical consumer diet.

Legal Authority

Federal Trade Commission Act, sections 5, 12 and 18, 15 U.S.C. 45, 52 and 57(a).

Timing

Final Staff Recommendations—March, 1981.
Possible Oral Presentation before the Commission—April, 1981.
Commission Consideration of Staff Recommended Rule—May, 1981.

Responsible Person

Harrison Sheppard, San Francisco Regional Office, Federal Trade Commission, P.O. Box 36005, 450 Golden Gate Ave., San Francisco, CA 94102, (415) 556–1270.

Mobile Home Sales and Services

(40 FR 28334, May 29, 1975)

The Proposed Rule

Pursuant to § 1.13(g) of the Commission's Rules, a staff report has been placed on the public record for post record comment. The report recommends a rule concerning warranty practices in the mobile home industry. This recommended rule contains substantial modifications and deletions from the originally proposed rule. It would set 30 day time limits within which the warrantor must complete warranty repairs and require manufacturers or their service agents to perform pre-occupancy inspection of the home. It would also require that manufacturers who offer written warranties on mobile homes maintain recordkeeping systems and disseminate a consumer questionnaire to monitor the adequacy of factory and dealer repairs. The recommended rule also would require that manufacturers enter into written service agreements with dealers and others who perform warranty repairs which specify who is responsible for making the repairs. Under the rule, written warranties must include specific time deadlines for service; set up and transportation damage cannot be excluded from coverage; and repairs cannot be contingent on return of the home to the factory or return of a registration card.

Based on a review of the written comments being received on the recently released staff report, there will be a further evaluation of the need for each of the provisions of the recommended rule. The recommended rule seeks to set performance standards for warranty service and service systems, but the appropriate degree of flexibility for each rule provision remains to be resolved. A possible alternative to specific time deadlines for warranty repairs would allow individual manufacturers and dealers to set their own deadlines, so long as they were disclosed in their warranties.

The recommended rule sets out eight issues that must be addressed in the written service agreement between the manufacturer and dealer. If specific service deadlines and related requirements are retained in any final rule that is promulgated, they may obviate the need for the written agreement to include some of the terms that essentially track obligations the recommended rule would impose on manufacturers.

Consideration will also be given to the need for a pre-occupancy inspection by the warrantor or its agent and whether responsibility for set up and transportation damage should rest on the manufacturer.

Finally, the recommended rule requires manufacturers to monitor the effectiveness of factory and dealer warranty repairs by maintaining service records and disseminating consumer questionnaires. An alternative may be to have manufacturers select their own monitoring devices, rather than require the use of a questionnaire.

Objectives

Most mobile home manufacturers offer a one year written warranty to cover defects in the materials and workmanship of the home. This warranty obligates them to repair defects, yet the rulemaking record indicates that many do not do so in an adequate or timely manner. The purpose of the recommended rule is to create

incentives for warrantors to fulfill their warranty obligations by providing services or repairs within a reasonable period of time.

Legal Authority

Federal Trade Commission Act, sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Close of post-record comment on Final Staff Report and Presiding Officer's Report—February 13, 1981.

Final Staff recommendations—July, 1981.

Oral presentation before Commission—September, 1981.

Responsible Person

Allen W. Hile and Eloise Gore, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 523-3935.

Credit Practices

(40 FR 16347, April 11, 1975)

The Proposed Rule

Pursuant to § 1.13(g) of the Commission's Rules, a staff report has been placed on the public record for post record comment. The staff's recommended rule, which modifies the originally proposed rule, addresses the use in consumer credit transactions of a variety of legal devices which creditors use to collect debts. Remedies now being recommended by the rulemaking staff include the following:

1. Confession of judgment—The debtor signs a form which authorizes the creditor to obtain a court judgment against him or her without notice to the debtor and without any opportunity for the debtor to appear and defend himself. The debtor thus loses due process rights, such as the ability to contest disputed claims. The rule would prohibit the use of confessions of judgment.

2. Waivers of state property exemptions—The debtor waives the right, granted by state law, to keep certain minimal property if a court judgment is obtained against him or her. The rule would prohibit the use of such waivers.

3. Wage assignments—The debtor authorizes the creditor to seize a portion of his wages without first obtaining a court judgment. The debtor loses the ability to contest disputed claims. Moreover, some debtors may be subject to disciplinary action or firing by employers who do not want to divide employee wages between a creditor and an employee because of the accounting costs this imposes. The rule would prohibit the use of wage assignments unless they are revocable.

4. Blanket security interests in household goods—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. Because in many instances such goods may have little resale value, it appears that creditors may use these security interests primarily to threaten the debtor and deter default, rather than to actually secure the debt. The rule would prohibit the use of security interests in household goods except to secure credit used to finance the purchase of such goods.

5. Cross-collateral security interests—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase. The rule would prohibit cross-collateral security interests unless collateral was releases from the security agreement as the consumer pays for it, in the order it was purchased.

6. Deficiencies—Following the repossession and sale of collateral, the creditor can sue the debtor for deficiency, i.e., the difference between their sale price of the product and the amount the consumer owes. The evidence shows that sale prices of repossessed collateral are frequently very low, resulting in large deficiencies. The rule would prohibit collection of deficiencies unless the debtor is credited with the fair market retail value of the collateral.

7. Attorney's fee provisions—The provisions require the debtor to pay the creditor's attorneys fees. These provisions may thus tend to inhibit debtors from defending themselves against payment of disputed debts. The evidence indicates that, in some instances, attorney's fees assessed by courts may be larger than actual court costs or the cost of actual service provided. The rule would prohibit attorney's fees clauses in consumer credit contracts.

8. Late charges—Late charges are penalty fees that the creditor asesses when the debtor fails to pay an installment on time. The rulemaking record shows that sometimes they are "pyramided", i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments. The rule would prohibit pyramiding of late charges.

9. Third party contacts—The record indicates that some creditors make contracts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job loss. The rule would require creditors to agree in credit contracts not to engage in third party contacts except to locate debtors or verify debtor assets.

10. Cosigners—Creditors sometimes have the debtor obtain one or more cosigners who agree to pay the debt if the principal debtor defaults. The evidence shows that cosigners frequently do not understand that the obligation they undertake is substantial. The rule would require creditors to give cosigners a notice informing cosigners of their obligation, along with copies of documents relating to the debt. Creditors would also have to notify cosigners of serious deliquency on the part of the principal debtor and to make serious efforts to collect from the principal before collecting from a cosigner. When a person is solicited to be a cosigner after an account is in default, the potential cosigner would have to be given a 3-day cooling off period to evaluate his or her obligation.

When the above described recommended rule was issued for public comment, it was accompanied by a memorandum from the Director of the Bureau of Consumer Protection which did not make specific recommendations but which invited public comment on alternatives to a number of proposed rule provisions. These include: substituting a "loser pay" approach to attorney's fees for the proposed ban on provisions that require a debtor to pay attorney's fees; limiting the prohibition against third party contacts to contacts with employers, and dropping proposed protections for cosigners that go beyond disclosure. In addition, the Bureau Director's memorandum suggests that the Commission may wish to consider some optimal mix of rule provisions, perhaps modeled on consumer credit laws that are already in effect in Connecticut, Iowa, and Wisconsin. These three States have laws that are similar in many respects to the proposed rule, and the rulemaking developed extensive information about how these State laws have worked in practice.

Finally, a memorandum from the Commission's Bureau of Economics concerning the recommended rule was made available to the public. The Bureau of Economics memorandum suggested alternative rule provisions in a number of areas, including elimination of the prohibition on security interests in household goods; elimination of the cross-collateralization provision of the

rule; substitution of a "loser pays" approach to attorneys' fees; and modification of the deficiency balances section of the rule to permit creditors to calculate deficiencies based on either the wholesale or retail value of the collateral, as determined by an actual sale.

The Commission will consider the alternatives recommended in the staff report, as well as those raised by the Bureau Director, the Bureau of Economics and various participants in the proceeding, and will decide what form of rule, if any, it ultimately should promulgate.

Objectives

When debtors default, they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, may inflict substantial injury on debtors that is disproportionate to their economic value. The recommended rule would address nine such remedies. The injury caused by these practices includes not only dollar losses, but also non-pecuniary harm, such as emotional distress and loss of privacy.

Legal Authority

Federal Trade Commission Act sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Deadline for public comments on Staff Report and Presiding Officer's Report—January 16, 1981.

Final staff recommendations to Commission—May, 1981.

Oral presentation to Commission—June, 1981.

Commission Consideration of Staff Recommendation—July, 1981.

Responsible Person

David Williams, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1100.

Antacid Advertising

(41 FR 14534–25, Apr. 6, 1976)

The Proposal

The Commission did not propose a rule at the outset of this proceeding. Rather than making a specific proposal, the Commission focused the proceeding on whether, and in what form, warnings required by the Food and Drug Administration ("FDA") in the labeling on non-prescription antacids should also appear in the advertising for such products. The proceeding has explored and considered various alternatives, including no warnings whatsoever, a general warning (which refers generally to the existence of risk and directs consumers to the label), various specific warnings (which specifically disclose the existence of particular risks), and various combinations of general and specific warnings. A decision by the staff on the final form of a recommended rule has not yet been made.

Objectives

Any rule in this area would be designed to prevent deceptive advertising claims for over-the-counter antacid products. In particular, a rule would be aimed at preventing the deceptive implication that antacid products are safe and can be taken by anyone without any adverse effects.

Legal Authority

Federal Trade Commission Act, sections 5, 12, 15, & 18, 15 U.S.C. 45, 52, 55 and 57(a).

Timing

Publication of Staff Report—February, 1981.

Public Comment—After release of the Staff Report.

Final Staff Recommendations to Commission—July, 1981.

Oral Presentations to Commission—October, 1981.

Responsible Person

Joel Brewer, Division of Food and Drug Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1530.

Health Spas

(40 FR 34615; (August 18, 1975))

The Proposed Rule

The proposed rule would require that health spa membership contracts include provisions which would grant consumers the right to cancel and receive a full refund without penalty, during a three-day cooling-off period. If the contract is with a seller whose facilities are not yet fully operational, the proposed rule would provide that the consumer's right of cancellation may be exercised within ten days after receipt of notice that the spa facilities are fully operational and available. Following the expiration of the cooling-off period, the proposed rule would require that the health spa contract afford the consumer an additional right to cancel at any time prior to the contract's expiration. In this instance, however, the seller would be allowed to retain a cancellation fee not in excess of 5% and a pro-rata portion of the contract price based on the period of time the facilities were available to, or used by, the consumer. The balance of the contract price would have to be refunded to the consumer within ten business days after cancellation of the contract.

Other provisions of the proposed rule prescribe the manner and form of giving the consumer notice of his cancellation right, prohibit the use of long-term contracts, and prohibit the receipt of more than 5% of the contract price from consumers if a spa is not fully operational and available for use.

The staff is presently completing its analysis of the rulemaking record and its report.

Objectives

The Rule's objectives are to create economic incentives for health spas to avoid unfair or deceptive sales practices and to provide consumers with contractual remedies which they can use to protect themselves when necessary.

Legal Authority

Federal Trade Commission Act, sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Publication of Staff Report—June, 1981.

Public Comment on Staff Report—until September, 1981.

Responsibile Person

John A. Crowley, Federal Trade Commission, New York Regional Office, 26 Federal Plaza, New York, New York 10278, (212) 264–1213.

Children's Advertising

(43 FR 17967, April 27, 1978)

The Proposed Rule

The Commission did not propose a rule at the onset of this proceeding. Rather than making a specific proposal, the rulemaking was aimed at determining whether television advertising directed to children is unfair or deceptive and, if so, what remedies are appropriate.

The Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252 suspended this proceeding until the Commission votes to publish the text of a proposed rule. Additionally, any further action in the proceeding could be based only on acts or practices which are "deceptive". By order of June 18, 1980, the Commission requested the staff to analyze the rulemaking record and submit by October 15, 1980 its recommendations and evaluation of courses of action available to the Commission. This deadline was postponed to February 15, 1981 so that

the staff could conduct further discussions of alternatives to rulemaking with all interested persons. By the new date, the staff is to submit the previously requested report or a status report describing the progress of informal meetings.

Objectives

The objective of this rulemaking is to examine whether measures are necessary to reduce any deception that may arise when children are too young to understand the selling purpose of television advertising directed to them. It is also intended to examine ways of reducing any deception that arises when television advertising of sugared products directed to older children omits to inform them of the health consequences of sugar consumption.

Legal Authority

Federal Trade Commission Act sections 5 & 18, 15 U.S.C. 45 & 57(a). Federal Trade Commission Improvements Act, Pub. L. 96–252, 94 Stat. 378, § 11.

Timing

Staff recommendations—by February 15, 1981.

Commission decision as to appropriate action—March, 1981.

Responsible Person

Susan Elliott, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1456.

Standards and Certification

(43 FR 57269, Dec. 7, 1978)

The Proposed Rule

The rule that was proposed in 1978 would require standards developers to provide notice of their standards-setting proceedings to representatives of all interests that are likely to be affected and to assure all interested persons fair opportunity to participate in the proceeding. Further, it would require the establishment of challenge and appeal mechanisms to resolve complaints about deceptive or unduly restrictive standards. Certifiers covered by it would be responsible for the truthfulness of their certifications, and would be obligated to take action to stop misuse of their seals of approval by producers.

This rulemaking is affected by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252. More specifically, the Commission's authority to issue the standards and certification rule with respect to "unfair or deceptive acts or practices" under § 18 of the FTC Act has been removed. The 1980 Act leaves unaffected whatever authority the FTC might have under any other provision of the Act to issue a rule with respect to "unfair methods of competition."

In addition to rulemaking there are a variety of possible alternatives to issuance of a rule under consideration. Industry guides or statements of enforcement policy could be issued and then these could be enforced in a case-by-case basis. Also under review are other government activities which affect the area to determine whether their impact on competitive and consumer problems would reduce the need for FTC action. One such activity is implementation of OMB Circular A–119, Federal Participation in the Development and Use of Voluntary Standards.

Objectives

Activity in this area is intended to reduce the incidence and severity of injuries to competition that may result from private standards development and product certification activities. Some 20,000 product standards are set by trade associations, technical and professional societies, product testing laboratories, and other private sector groups. They are relied on by consumers, building code officials, Federal and State agencies, and others for regulatory and procurement purposes. Generally, these standards provide significant benefits, such as lowering the cost of communications between buyers and sellers; improving the transfer of technology; encouraging efficiencies in design, production, and inventory; and assuring such things as the safety, fitness, and energy efficiency of products. However, substantial injury to competitors and consumers can occur if standards development or certification activities block the use of superior or lower cost technology, prevent businesses from competing in profitable industries, establish inadequate or inappropriate product safety levels, inflate product prices, or deceive consumers about the quality of products.

Legal Authority

Federal Trade Commission Act, sections 5 & 6, 15 U.S.C. 45 & 46. Federal Trade Commission Improvements Act, Pub. L. 96–252, 94 Stat. 374, section 7.

Timing

In response to passage of the Improvements Act, staff has recommended that the most efficient way to determine what Commission actions, if any, are necessary with respect to standards and certification activities is to complete analysis of the rulemaking record gathered to date. Staff's recommendation is pending with the Commission. If staff's recommendation is approved, timing would be as follows:

Staff Report—Summer 1981.

Presiding Officer's Report—60 Days after Staff Report.

Post-Record Comments—After Presiding Officer's Report.

Responsible Person

Robert J. Schroeder, Division of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3936.

Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans

(ANPR 45 FR 17019, March 17, 1980)

The Proposal

In April 1979, the staff of the Bureau of Competition submitted to the Federal Trade Commission a staff report entitled "Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans," which noted that many members of the boards of directors of such prepayment plans frequently have been selected by medical societies and other groups of physicians whose services are paid for by the plan. The staff report concluded that there is reason to believe that control or participation in control of open-panel medical prepayment plans by physician organizations impairs competition among physicians and between physicians and non-physician providers of health care services, and thus may be an unfair method of competition in violation of § 5 of the Federal Trade Commission Act. The staff accordingly recommended to the Commission that it initiate rulemaking proceedings to determine whether a rule should be promulgated that would prohibit a physician organization from directly or indirectly controlling or participating in the control of any open-panel plan. The rule proposed for comment by the staff defined control as, *inter alia*, the selection or participation in the selection of any member of the plan's governing body.

In November 1979, the Commission's Bureau of Economics published a staff study entitled "Physician Control of Blue Shield Plans." The results of the study, which assessed the relationship between medical society participation in plan governance and reimbursement rates for selected medical procedures, were that (other factors being equal)

Blue Shield reimbursement rates in 1977 were 16 percent higher where a local medical society selected plan board members.

The Commission has not decided whether to take action on the basis of the recommendations set forth in these staff reports, but the Commission did conclude that the reports raise a number of important issues, especially in light of the rapid escalation in the cost of health care. Before considering these issues, however, the Commission decided to solicit comments on its staff's analyses, on the facts dealt with by the reports, and on certain specific areas of concern. Therefore, on March 17, 1980, the Commission issued a Request for Comment and Advance Notice of Proposed Rulemaking. One of the issues upon which the Commission specifically sought public comment was upon the procedures it should use to further explore these issues. One procedural option would be rulemaking, but the Commission noted that such alternatives as issuance of an industry guide or case-by-case enforcement are also possible approaches.

Objectives

Whether the Commission determines that it should proceed by rulemaking or should adopt an alternative procedural approach, the objective of any Commission action would be to promote competition in the market for health care services. If the Commission takes action—whether by rule, by guide, or by case enforcement—the Commission's objective would be to remedy whatever problems may result from medical control of prepayment plans such as Blue Shield. The staff reports suggest that such control reduces competition among physicians who participate in or are paid by such plans, and between such physicians and other health care providers. This impairment of competition may, as the Bureau of Economics study indicates, result in higher health care costs. The issue is important because Blue Shield plans make up the largest system of open-panel medical prepayment plans in the Nation, and other open-panel plans—variously called medical service bureaus, foundations for medical care, and/or individual practice association-type health maintenance organizations—cover a small but rapidly growing portion of the Nation's population.

The staff has not yet been able to calculate specific cost savings that would result from Commission action but believes that such cost savings would be substantial. An effect of action by the Commission in this area would be to clarify existing law with respect to whether and to what extent the antitrust laws permit physician organizations to participate in controlling medical prepayment plans.

Legal Authority

Federal Trade Commission Act, sections 5–6, 15 U.S.C. 45–46.

Timing

The Bureau of Competition staff anticipates that it will forward to the Commission its recommendation among various procedural options in the Winter of 1980–81. Should the Commission decide to proceed with rulemaking, notice to that effect will be published in the Federal Register during Winter/Spring 1981.

Responsible Person

Walter T. Winslow, Jr., Assistant Director, Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1062.

Amendment to Eyeglasses Rule and Eyeglasses II

(16 CFR Part 456)

The Proposal

The Staff has written a report recommending proposed amendments to the Eyeglasses Rule (16 CFR Part 456) concerning release of eyeglasses and contact lens prescriptions following the dispensing of the goods, and new trade regulation rule provisions which would remove State-imposed restrictions on (1) lay or corporate employment of optometrists and opticians, (2) locations of practice, (3) branch offices and (4) use of trade names. The Commission has made no determination on the findings and recommendations of the staff; hence, no formal rulemaking has been initiated.

The Commission has issued an Advance Notice of Proposed Rulemaking (ANPR) (45 FR 79823–831, Dec. 2, 1980) requesting public comment on the staff's analysis and recommendations and on alternative courses of action which the Commission might take. At the conclusion of this comment period, the Commission will decide what action is appropriate.

In addition to the staff recommendations, the Commission is considering alternative courses of action. One of the alternatives is a publication of a Commission report along with a model State law for review by the States. Such a model statute might, for example, permit optometrists and opticians to practice in commercial settings but at the same time ensure protection of quality care by including minimum standards for eye examinations and equipment and the protection of the doctor-patient relationship.

Another alternative would be the issuance of a voluntary guide, including some or all of the provisions recommended by the Commission's staff for rulemaking. A guide could define, for example, the kinds of private restrictions on commercial practice that the Commission believed unjustifiably inhibited competition among eye care providers or consumer access to alternative, low cost eye care goods and services.

Objectives

The objective of the Commission's investigation is to reduce public and private restraints which increase consumer prices and limit accessibility to vision care but which do not appear necessary to protect the public health and safety. The principal question the Commission is exploring is the impact of the restrictions noted above on the price, quality and availability of vision care. The investigation has sought, through the development of statistically valid market research, to determine whether higher prices result from these restrictions and, if so, whether offsetting consumer benefits also result for these restrictions.

Legal Authority

Federal Trade Commission Act, sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Public comment period on ANPRM—until February 2, 1981.

Commission decision on appropriate action—April, 1981.

Responsible Person

Christine Latsey, Division of Professional Services, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3426.

Amendment to Labeling and Advertising of Home Insulation Rule, 16 CFR Part 460

(42 FR 59678, 1977)

The Amendment

The Commission's home insulation trade regulation rule became effective on September 29, 1980. The rule requires manufacturers of insulation products sold for residential use to test their products to determine insulating ability ("R-value"), and to disclose R-values and related information on product labels and on fact sheets to be made

available to consumers by retailers and installers. It requires disclosure of R-values and related information by insulation installers and new home sellers. It requires advertisers to have a reasonable basis for energy savings claims they make about specific insulation products, and to disclose specific additional information in advertisements or other promotional materials when they make energy savings claims about an insulation product or refer to the product's thickness, R-value or price.

The Commission will reopen the rulemaking proceeding to consider whether it should amend the rule's disclosure requirements insofar as they apply to television advertising. The Commission has temporarily delayed the effective date of those disclosure requirements pending the initiation and completion of these amendment proceedings.

Amendment proceedings may also be necessary to consider whether changes in procedures for testing thick insulation samples to determine their insulation quality should be incorporated into the rule. The Commission has temporarily delayed the effective date of the rule's requirements for testing thick insulation samples.

Objectives

These amendment proceedings are in response to an earlier court order and changes in test technology. After the Commission promulgated the rule on August 31, 1979, an appeal was filed in the United States Court of Appeals for the Tenth Circuit. The Commission and the petitioners agreed to ask the Tenth Circuit to remand the rule to the Commission. On January 4, 1980, the Court approved the joint stipulation and remanded the rule to the Commission for further rulemaking proceedings concerning thick sample testing and television advertising disclosures.

In addition, the rule by necessity incorporates test procedures for determining insulation quality. The National Bureau of Standards is expected to develop procedures for accurately testing thick samples by January, 1981, after which the appropriate requirement can be developed.

Legal Authority

Federal Trade Commission Act, sections 5 & 18, 15 U.S.C. 45 & 57(a).

Timing

Advance notice of proposed rulemaking—March, 1981.

Notice of proposed rulemaking—June, 1981.

Responsible Person

Kent C. Howerton, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1524.

Residential Real Estate Brokerage Practices

The Proposal

The staff has just completed its investigative work in a nationwide investigation of the residential real estate brokerage industry. As yet, neither the staff nor the Commission has reached any conclusions on any appropriate action. However, several alternatives are under consideration. These include: (1) A trade regulation rule which would declare certain brokerage acts or practices "unfair or deceptive" and thus unlawful under Section 5 of the FTC Act; (2) public reports containing legislative proposals to Congress or the State legislatures seeking to alter the legal standards of practice for the industry; (3) efforts to educate the home buying and selling public, including attempts to increase consumer understanding of the brokerage transaction and to facilitate consumer shopping efforts; (4) formal administrative complaints, alleging anticompetitive, unfair, or deceptive practices, against groups or individuals in the industry; and (5) no action.

Any of these alternatives for action might be used to encourage a number of substantive changes which may enhance competition among brokers and improve the flow of information to consumers. Among the many possible changes the staff is considering are those that would encourage (1) elimination of practices that may discourage brokers from offering differing prices and differing packages of services; (2) alteration of certain requirements or conditions on the use of multiple listing services and other important services; (3) clarification of existing legal duties between brokers, and between brokers and consumers; and (4) the making of simple and brief disclosures to consumers to aid them to make informed choices about brokerage services.

Objectives

Complaints and comments from brokers, consumer groups, and legal and economic experts have raised questions about how the competitive process is working (especially in light of the commonplace 6 or 7 percent commission rates) and how the consumer is served (including problems of possible conflicts of interest and consumer under-representation) in the brokerage transaction.

In considering the various policy alternatives, the staff is seeking to insure that the marketplace will be allowed to provide the choices that consumers want. The staff is giving primary consideration to actions that may enhance price and service competition among brokers by lessening private restraints on competitors, and that will improve the flow of accurate information to consumers, so that they can make more informed choices among brokers.

Legal Authority

Federal Trade Commission Act, Sections 5, 6 and 18, 15 U.S.C. 45, 46 and 57(a).

Timing

The timetable for any FTC will depend on the nature of the action selected. Commission decision as to an appropriate course of action—April, 1981.

Responsible Person

Robert J. Enders, Regional Director, Federal Trade Commission, Los Angeles Regional Office, 11000 Wilshire Blvd., Suite 13209, Los Angeles, CA 90024, (213) 824–7575.

By Direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81–3694 Filed 2–2–81; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–234–76]

Foreign Bribes and International Boycotts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to regulations relating to foreign bribes and international boycotts. These amendments will affect controlled foreign corporations and Domestic International Sales Corporations paying bribes or making other illegal payments or participating in or cooperating with certain international boycotts and the shareholders of those corporations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by April 6, 1981. The

amendments apply to payments made after November 3, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–234–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Catherine Kelly Banks of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 952, 964 and 995 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to changes made to the Internal Revenue Code by sections 1062, 1063 and 1065 of the Tax Reform Act of 1976 (90 Stat. 1650, 1653–4). Sections 1062, 1063 and 1064 amended sections 952, 964 and 995 to eliminate certain tax deferral benefits available to controlled foreign corporations (CFCs) and Domestic International Sales Corporations (DISCs). The deferral benefits are eliminated in cases where such corporations pay bribes or make other illegal payments or participate in or cooperate with certain international boycotts. The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Sections 952 and 995 have been amended to provide that any illegal bribe, kickback or other payment (within the meaning of section 162(c)), paid by or on behalf of the corporation directly or indirectly to an official, employee, or agent in fact of a government will be treated as a deemed distribution as to CFCs and DISCs, respectively.

Sections 952 and 995 have also been amended to provide that where a CFC or DISC participates in or cooperates with certain international boycotts, a portion of the income of the CFC or DISC will be treated as a deemed distribution of that CFC or DISC.

In the case of CFCs, section 964 has been amended to provide that the earnings and profits of a foreign corporation will not be reduced by such illegal payments.

Section 964(a) provides that earnings and profits of a foreign corporation are to be determined substantially as if the corporation were a domestic one. Paragraph (f) of § 1.964–1 allows a foreign corporation which qualifies under the requirements of that paragraph for such election to elect *identical* treatment with a domestic corporation in determining earnings and profits. These regulations are being changed to indicate that a foreign corporation cannot under either option decrease earnings and profits or increase a deficit in earnings and profits by the amount of an illegal payment.

The proposed regulation clarifies that the principles of section 162(c) and § 1.162–18 shall apply in determining whether an illegal payment has been paid directly or indirectly to an official, employee or agent in fact of a government.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of this regulation is Catherine Kelly Banks of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Paragraph (a) of § 1.952–1 is amended as follows:

1. Subparagraph (1) is amended by deleting the word "and".

2. Subparagraph (2) is amended by deleting the period at the end of the subparagraph and inserting in lieu thereof a comma.

3. New subparagraphs (3) and (4) are added. The amended and new provisions read as follows:

§ 1.952–1 Subpart F income defined.

(a) *In general.* * * *

(3) An amount equal to the product of—

(i) The income of such corporation other than income which—

(A) Is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph), or

(B) Is described in subsection (b), multiplied by

(ii) The international boycott factor (as determined under section 999), and

(4) The sum of the amounts of any illegal bribes, kickbacks, or other payments paid after November 3, 1976, by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government. An amount is paid by a controlled foreign corporation where it is paid by any officer, director, employee, or shareholder of such corporation. For purposes of this section, the principles of section 162(c) and § 1.162–18 shall apply. The fair market value of an illegal payment made in the form of property or services shall be considered the amount of such illegal payment.

* * * * *

Par. 2. Section 1.964–1 is amended by revising the flush language in paragraph (a) and revising paragraph (f) to read as follows:

§ 1.964–1 Determination of the earnings and profits of a foreign corporation.

(a) *In general.* * * *

The computation described in the preceding sentence may be made by following the procedures described in subparagraphs (1) through (5) of this paragraph in an order other than the one listed, as long as the result so obtained would be the same. In determining earnings and profits, or the deficit in earnings and profits, of a foreign corporation under section 964, the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c) and § 1.162–18) paid after November 3, 1976 by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government shall not be taken into account to decrease such earnings and profits or to increase such deficit. No adjustment shall be required under subparagraph (2) or (3) of this paragraph unless it is material. Whether an adjustment is material depends on the facts and circumstances of the particular case, including the amount of the adjustment, its size relative to the general level of the corporation's total assets and annual profit or loss, the consistency with which the practice has been applied, and whether the item to which the adjustment relates is of a

recurring or merely a nonrecurring nature. For the treatment of earnings and profits whose distribution is prevented by restrictions and limitations imposed by a foreign government, see section 964(b) and the regulations thereunder.

* * * * *

(f) *Determination of earnings and profits as if a domestic corporation*—(1) *In general.* If the books of account regularly maintained by a foreign corporation for the purpose of accounting to its shareholders are kept in U.S. dollars and in accordance with accounting principles generally accepted in the United States, and if it is so elected by or on behalf of such corporation, the earnings and profits of the foreign corporation for a taxable year shall, except as otherwise provided in paragraph (f)(2) of this section, be determined in every respect as if it were a domestic corporation. Such election shall be effective only for the taxable year with respect to which the election is made. Once made, such election shall be irrevocable. See paragraph (c)(3) of this section for the time and manner in which an election may be made on behalf of a foreign corporation.

(2) *Illegal payments.* The amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c) and § 1.162–18) paid after November 3, 1976 by or on behalf of the corporation during the taxable year of the corporation directly or indirectly to an official, employee, or agent in fact of a government shall not be taken into account to decrease earnings and profits or increase the deficit in earnings and profits otherwise determined under paragraph (f)(1) of this section.

Par. 3. Paragraph (a)(4) of § 1.995–2 is revised to read as follows:

§ 1.995–2 Deemed distributions in qualified years.

(a) *General rule.* * * *

(4) The sum of—

(i) An amount equal of one-half of the excess (if any) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)), before reduction for any distributions during the year, over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), and (3) of this paragraph,

(ii) An amount equal to the amount determined under clause (i) multiplied by the international boycott factor determined under section 999, and

(iii) An amount equal to the sum of any illegal bribes, kickbacks, or other payments paid after November 3, 1976 by or on behalf of the DISC directly or in directly to an official, employee, or agent in fact of a government.

An amount is paid by a DISC where it is paid by any officer, director, employee, or shareholder of such DISC. For purposes of this section, the principles of section 162(c) and § 1.162–18 shall apply. The fair market value of an illegal payment made in the form of property or services shall be considered the amount of such illegal payment.

* * * * *

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 81-3021 Filed 1-29-81; 3:51 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2520

Proposed Revision of Annual Return/Reports and Regulations Regarding Plans Which Participate In a Master Trust

Corrections

In FR Doc. 80–40554 appearing on page 85793 in the issue of Tuesday, December 30, 1980, make the following changes:

(1) On page 85793, second column, fourth line under "DATES", delete "February 13," and insert "March 1,"; in the third column, first line of the last paragraph, "department" should read "Department".

(2) On page 85794, second column, tenth line of the first full paragraph, "Allocated" should read "allocated".

(3) On page 85795, second column, first paragraph, ninth line, insert "a" after "in".

(4) On page 85796, second column, second paragraph from the bottom, eighth line, insert "a" after "in".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 181

[Notice No. 366; Reference: Notice No. 358]

Amendments to Explosive Materials Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 358, Amendments to Explosive Materials Regulations, an additional 30 days. Notice No. 358 was published in the **Federal Register** on November 18, 1980 (45 FR 76191).

DATE: The comment period for Notice No. 358 is extended until February 18, 1981.

ADDRESS: Send comments to: Director, Bureau of Alcohol, Tobacco and Firearms P.O. Box 385, Washington, D.C. 20044 (attn: Chief, Regulations and Procedures Division—Notice No. 358).

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1980, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking (Notice No. 358) to obtain comments on the proposed to amend the regulations in 27 CFR Part 181, Commerce in Explosives. This notice resulted from a review of explosives regulations and the comments received on a previous notice of proposed rulemaking. The comment period on the notice was to end on January 19, 1981.

Extension of Comment Period

Due to the length of time required to print a large document, copies of the notice were not distributed to potential commenters at least three weeks after publication in the **Federal Register**. In addition, the proposed regulations were distributed during a holiday season which limited review time. An industry association also petitioned for an extension of the comment period. Therefore, ATF is extending the comment period 30 days for Notice No. 358 until February 18, 1981.

Public Participation

ATF requests comments from all interested persons concerning this proposal. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action. ATF will not recognize any material in the comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure. After consideration of all comments and suggestions, ATF may issue final regualtions.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This notice is issued under the authority of 18 U.S.C. 847 (84 Stat. 959)

Signed: January 28, 1981.

G. R. Dickerson,

Director.

[FR Doc. 81-3718 Filed 2-2-81; 8:45 am]

BILLING CODE 4810-31-M

POSTAL SERVICE

39 CFR Part 776

Floodplain Management and Protection of Wetlands Procedures

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes procedures for implementing Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. These procedures set forth general policy, criteria, and requirements. Specific guidance for administrative personnel is provided by a more detailed Postal Service publication, Environmental Procedures Handbook RE-6.

DATES: Comments must be received on or before March 5, 1981.

ADDRESS: Written comments should be sent to: Director, Office of Program Planning, Real Estate and Buildings Department, United States Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8915, U.S. Postal Service, Headquarters, 475 L'Enfant Plaza West, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Frank Rowan, (202) 245-4348.

SUPPLEMENTARY INFORMATION: The policies established by Executive Orders 11988 and 11990 are to avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains and wetlands; to reduce the risk of flood loss; to minimize the impact of floods on human safety, health, and welfare; and to restore and preserve the natural and beneficial values of floodplains and wetlands. To further these policies, the Postal Service has developed proposed procedures to govern actions which may affect floodplains and wetlands. The procedures provide for a careful evaluation of factors when determining whether to take action in, or affecting, a floodplain or wetland. They provide for public notice and appropriate public involvement in the decision-making process. The procedures involve a comprehensive search for viable alternatives to floodplain and wetland usage. They require the full identification of impacts and require mitigation if a floodplain or wetland is to be affected. A detailed, high-level review of pertinent factors must be completed before a final decision is made to use floodplain and wetland areas.

In consideration of the foregoing, it is proposed to add new Part 776 of Title 39, Code of Federal Regulations, reading as follows:

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

PART 776—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS PROCEDURES

Sec.

Authority: 39 U.S.C. 401.

§ 776.1 Purpose and policy.

(a) Executive Order 11988, Floodplain Management, was issued on May 24, 1977, under authority of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.), (NEPA), the National Flood Insurance Act of 1968 as amended (42 U.S.C. 4001), and the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 9451). Executive Order 11990, Protection of Wetlands, was issued on May 24, 1977 under authority of NEPA. The purpose of these Orders was to avoid adverse impacts associated with the occupancy and/or modification of floodplains; or the modification and destruction of wetlands.

(b) These procedures implement Executive Orders 11988 and 11990 and are adopted under the Postal Reorganization Act rather than the statutes listed in § 776.1(a) to the extent these statutes do not apply to the Postal Service under 39 U.S.C. 410(a).

(c) These procedures provide guidance:

(1) To avoid direct or indirect, long or short term adverse impact on floodplains and wetlands;

(2) To reduce the risk of flood loss;

(3) To minimize the impact of floods on human safety, health, and welfare;

(4) To restore and preserve the natural and beneficial values served by floodplains;

(5) To minimize the destruction, loss, or degradation of wetlands;

(6) To preserve and enhance the natural and beneficial values of wetlands; and

(7) To avoid direct or indirect support of floodplain development.

(d) These procedures are general in nature. Postal Service Handbook RE-6, *Environmental Procedures,* provides detailed procedures for implementing these executive orders.

§ 776.22 Responsibility.

The Assistant Postmaster General, Real Estate and Buildings Department, is responsible for overall compliance with these procedures.

§ 776.3 Scope.

These procedures are applicable to every proposed postal facility project which involves:

(a) New construction, for ownership or lease;

(b) Existing buildings, owned or leased, except the acquisition of existing leased facilities when no substantial external change in the configuration of the facility will occur;

(c) Modernization or improvement of an existing facility where the external configuration of the building or the use of the facility is changed substantially and significantly;

(d) Disposal or lease of owned, excess property;

(e) Proposals for granting a property easement or right-of-way to non-federal public or private parties.

§ 776.4 Definitions.

(a) A *floodplain,* for the purposes of these procedures, is the area in which a flood has a one percent change of occurrence in any given year (also known as a 100-year flood).

(b) A *wetland,* for the purposes of these procedures, is an area that is inundated by surface or ground water frequently enough to support a prevalence of vegetable or aquatic life requiring saturated or seasonally saturated soil conditions for growth and reproduction.

(c) A *Site Planning Report* is a document used to identify and evaluate sites available for a proposed construction or real estate action.

(d) An *Economic Analysis Report* is a document which evaluates the economic value of alternatives.

§ 776.5 New Construction.

(a) *Restriction on Consideration of Floodplain/Wetland.* During the evaluation of the preferred area for the proposed project, floodplain and wetland areas may be considered *only* when there is no practicable, alternative site.

(b) *Floodplain/Wetland Information.* Floodplain and wetland information must be compiled and considered throughout the facility planning process. If a proposed action will occur in or impact a floodplain or wetland site, specific floodplain or wetland information must be developed. As a minimum, the information should:

(1) Document whether the proposed action will directly or indirectly support floodplain development.

(2) Document the impacts a proposed action would have on the floodplain or wetland, including positive and negative; concentrated and dispersed; short-term and long-term.

(3) Document the flood hazard and risk to lives and property.

(4) Present the natural and beneficial floodplain values.

(5) Present measures which will preserve the floodplain, minimize harm to it, or restore it. Minimization of harm is assessed in terms of:

(i) The amount of investment at risk or the flood loss potential of the action itself,

(ii) The impact the action may have on others, and

(iii) The impact the action may have on floodplain values.

(c) *Environmental Assessment/Impact Statement.* Information developed conerning the floodplain or wetland must be evaluated in an Environmental Assessment or Environmental Impact Statement prepared for the project and made available to the public under 39 CFR 775.

(d) *Site Planning Report.* During site evaluation and the preparation of the Site Planning Report, a determination must be made whether any of the identified site alternatives would require construction in, or appear to have an impact on, a floodplain or wetland. This information will be included as a part of the Site Planning Report and the Environmental Assessment.

(e) *Scope of Alternatives.* If any of the site alternatives identified in the Site Planning Report are located within a flood-plain or wetland, the scope of alternatives considered in the preliminary Analysis Report must include:

(1) Alternate sites as identified in the Site Planning Report;

(2) Other means which accomplish the same purpose as the proposed action; and

(3) A no-action alternative.

(f) *Reevaluation.* If, after consideration of the Site Planning Report, Environmental Assessment, and preliminary Economic Analysis Report, the determination is that there appears to be no practicable alternative to locating in a floodplain or wetland, a final reevaluation of alternatives must be conducted. The Headquarters Director, Office of Program Planning, Real Estate and Buildings (RE&B) Department, is responsible for this reevaluation. To facilitate this reevaluation, the Regional Director, RE&B Department, must compile and submit the following data to the HQ Director, Office of Program Planning, RE&B Department:

(1) A summary of reasons why the rejected alternatives and alternative sites, if any, were considered impracticable.

(2) Detailed descriptions of all rejected alternatives and alternative sites.

(3) A summary of comments received from the public and A–95 Clearinghouses as a result of proper public notices.

(4) The Site Planning Report.

(5) The Site Planning Report Environmental Assessment.

(6) The floodplain or wetland location map from which the determination was made. The map or other information should indicate appropriate site evaluations (contours), base floor elevation, and the floodplain elevation at the site.

(7) The facility functional design specifications or site utilization drawings, if available.

(8) Other information pertinent to the proposal as determined by the stage of development of the project.

(g) *Alternative Available.* If the HQ Director, Office of Program Planning, RE&B Department, determines that there may be a practicable site alternative to the one selected, the appropriate Postal Service organization is advised to abandon the selected course and pursue other alternatives.

(h) *No Alternative.* HQ Director, Office of Program Planning, RE&B Department, determines that there is not a practicable alternative to siting in a floodplain or wetland, the appropriate Postal Service organization is so advised. The Director may provide instructions for mandatory measures to be accomplished during design and construction to minimize harm to the floodplain or wetland.

(i) *Public Notice.* If there is no practicable alternative to locating the site in a floodplain or wetland, the Regional Director, RE&B Department, must provide a public notice [see § 776.8] as soon as possible for the proposed action. The notice includes:

(1) A description of why the proposed action must be located in a floodplain or wetland;

(2) A description of all significant facts considered in making the determination, including alternative sites and actions;

(3) A statement indicating whether the actions conform to applicable state or local floodplain/wetland protection standards;

(4) If applicable, a statement indicating why the National Flood Insurance Program criteria are demonstrably inappropriate for the proposed action;

(5) A description of measures that will be taken to minimize harm to the floodplain or wetland;

(6) A statement indicating how the nation affects natural or beneficial floodplain values; and

(7) A list of any other involved agencies or individuals.

(j) *Design Requirements.* If structures impact, are located in, or support development of a floodplain or wetland, the design must include measures necessary (1) to minimize harm to the floodplain or wetland; (2) to reduce the risk of flood loss; (3) to minimize destruction, loss, or degradation of wetlands; (4) to minimize the impact on human safety, health, and welfare; and (5) to restore and preserve the natural and beneficial floodplain and wetland values. Construction must conform, at a minimum, to the standards and criteria of the National Flood Insurance Program, except where those standards are demonstrably inappropriate for postal purposes.

§ 776.6 Existing buildings, owned or leased.

(a) *Installing Markers for Flood Hazards.* If property used by the general public has suffered flood damage or is located in a floodplain or flood hazard area, conspicuous markers must be installed on structures and other appropriate places to show past flood record height and the probable 100-year flood height. These must be installed where they will be readily visible to the general public visiting or using the facility.

(B) *Warning Procedures for Floods.* The Regional Director, Mail Processing Department, must develop warning and

evacuation procedures for properties subject to flash floods or rapid rise floods.

§ 776.7 Disposal, Lease, Easement to non-Federal Public or Private Parties.

For actions involving a lease, easement right-of-way, or disposal to non-federal public or private parties, a determination whether the proposed action will occur in a floodplain or wetland must be made. If the action will occur in a floodplain or wetland, the Postal Service must take one of the following actions:

(a) Reference in the conveyance those uses that are restricted under identified federal, state, or local floodplain or wetland regulations; or

(b) Attach other appropriate restrictions to the use of properties by the grantee or purchaser and any successors, which assure (1) that harm to lives, property, and the floodplain or wetland values are identified and are minimized, and (2) that floodplain or wetland values are restored and preserved, except where prohibited by law; or

(c) Withhold the property from conveyance.

§ 776.8 Public notice.

(a) Public notice of Postal Service plans for locating a proposed project in a floodplain or a wetland will be sent to: state, areawide, and local A-95 Clearinghouses listed in OMB Circular A-95 (Revised) for the geographic area involved; local public officials; local newspapers; and other parties who express interest in the project.

(b) The notice must contain the information described in § 776.5(i).

(c) The public notice also must contain a provision for a 30-day public commenting period before any action is taken to acquire the site.

[FR Doc. 81-3937 Filed 2-2-81; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 381

Cargo Preference—U.S. Flag Vessels Geographical Allocation of Preference Cargoes; Extension of Time To File Comments

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Extension of time to file comments on proposed rulemaking.

SUMMARY: On January 9, 1981, the Maritime Subsidy Board published in the **Federal Register** (46 FR 2370) a Notice of Proposed Rulemaking seeking comments within 30 days of date of publication on a new Part 381.8 of the Code of Federal Regulations. The Proposed 46 CFR 381.8 interprets the phrase, by geographical areas," in the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) by prescribing the geographical allocation of preference cargoes among the ports in the four coastal areas of the United States. The United States Department of Agriculture has requested that the comment period on the Proposed Rule be expanded to 60 days. Notice is hereby given that the closing date for comments on the Proposed Rule is extended to the close of business on March 9, 1981.

DATE: Comments are now due on March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Robert J. Patton, Jr. (202) 377-2188.

Dated: January 28, 1981.

Georgia Pournaras Stamas,

Assistant Secretary.

[FR Doc. 81-3719 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

50 CFR Part 639

Gulf of Mexico Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Adminstration/Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold public hearings for the purpose of public input on the Draft Environmental Impact Statement/Fishery Management Plan for Groundfish.

DATES: Written comments on the groundfish plan from members of the public may be submitted no later than March 9, 1981.

Individuals or organizations wishing to comment on the fishery management plan may do so at public hearings to be held as follows:

February 23, 1981—Panama City, Florida, and Galveston, Texas
February 24, 1981—New Orleans, Louisiana
February 25, 1981—Biloxi, Mississippi
February 26, 1981—Mobile, Alabama

All of the above hearings will start at 7:00 p.m. and adjourn at 10:00 p.m.

The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared on each hearing.

ADDRESS: Send comments to: Chairman, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

Hearing Locations

February 23, 1981—City Commissioner's Meeting Room, City Hall, 9 Harrison Avenue, Panama City, Florida
February 23, 1981—Jury Assembly Room, County Court House, 722 Moody Avenue, Galveston, Texas
February 24, 1981—Landmark Hotel, 2601 Severn Avenue, Metairie, Louisiana
February 25, 1981—Biloxi Cultural Center (Library), 217 Lameuse, Biloxi, Mississippi
February 26, 1981—Holiday inn, 255 Church Street, Mobile, Alabama.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, (813) 228-2815.

SUPPLEMENTARY INFORMATION: The hearings will deal with a proposal to implement a fishery management plan for groundfish in the geographical area of authority of the Gulf of Mexico Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act of 1976.

The Environmental Impact Statement is a review of the plan and a statement of its expected impacts. A fishery management plan is a major Federal action significantly affecting the human environment and requires the approval of the Secretary of Commerce prior to implementation.

The draft plan for groundfish, when approved, will serve to manage the groundfish fishery for optimum yield (OY) and, therefore, contains regulatory measures applicable to domestic fishing. The management area is the U.S. fishery conservation zone (FCZ) of the Gulf of Mexico, which is described as three areas: Western Grounds (west of Point Au Fer, Louisiana); Primary Area (Point Au Fer to Perdido Bay, Florida); and the Eastern Grounds (east of Perdido Bay)

Species

Groundfish are defined in this plan as demersal (near bottom) species that (1) occur in waters of the management area, and (2) are subject to capture by trawls. The species of major importance form a definable ecological unit in that they are demersal fishes associated with offshore river depositions but are estuarine dependent to some degree.

These species are as follows:

Atlantic croaker—*Micropogon undulotus*
Spot—*Leiostomus xanthurus*
Sand seatrout—*Cynoscion arenarius*
Silver seatrout—*Cynoscion nothus*
Atlantic cutlassfish—*Trichiurus lepturus*
Sea catfish—*Arius felis*
Longspine porgy—*Stenotomus coprinus*
Silver perch—*Boirdiella chrysura*
Southern kingfish—*Menticirrhus omericanus*
Banded drum—*Larimus fasciatus*
Star drum—*Stellifer lonceolatus*
Southern hake—*Urophycis floridonus*
Gulf butterfish—*Peprilus burti*
Harvestfish—*Peprilus olepidotus*

Definition of Monogement Unit. The management unit of the groundfish management plan is that part of the groundfish fishery in the FCZ of the Gulf of Mexico and adjacent estuaries. Federal regulation is limited to the FCZ, however.

Specific Management Objectives:

Specific managment objectives were selected by the Council to address the problems associated with the fishery. It is the intention of the Council to meet the needs of the directed fishery for groundfish without disrupting the shrimp fishery. The objectives are:

Short-Term:

1. Reduce waste of the resource.
2. Improve the economic condition of the directed groundfish fishery by achieving a higher stock abundance and a larger size of fish.
3. Provide the information necessary to manage the fishery.
4. Promote consistency with the Endangered Species Act, the Marine Mammal Protection Act and the shrimp plan.

Long-Term:

1. Manage the groundfish fishery for the maximum benefit to all fishermen harvesting groundfish, including those that harvest and discard groundfish in directed fishing for other species.
2. Increase the beneficial use and minimize waste of the bycatch of groundfish which is normally discarded by shrimp vessels.
3. Encourage habitat protection and water quality regulations to prevent undue loss or degradation of groundfish habitat.
4. Prevent recruitment overfishing and reduce growth overfishing of groundfish stocks.
5. Monitor the relative balance among the species in the groundfish-shrimp ecosystem.

Proposed Monogement:

Implementation of the fishery management plan for groundfish will provide for gear restrictions in the shrimp fishery to reduce incidental catch of groundfish when such gear is proven to be effective and meets specified criteria. Nursery sanctuaries in State waters and habitat protection are encouraged. Data reporting is required from harvesters and processors. The Secretary is provided with authority to set seasons, restrict gear, and close areas in the FCZ when harvest is expected to exceed mamimum sustainable yield by 10 percent.

Management Summary

[In metric tons]

	Eastern grounds	Western grounds	Primary area	Total Gulf of Mexico
Maximum Sustainable Yield (MSY)	100,000	484,000	486,000	1,070,000
Optimum Yield (OY)	43,000	348,480	427,680	819,160
Expected Annual Domestic Harvest	9,000	263,000	427,680	699,680
Total Allowable Level of Foreign Fishing	34,000	85,480	0	119,480
Domestic Harvesting Capacity	11,500	293,000	627,800	932,300
Expected Domestic Annual Processing Volume	1,000	0	62,800	63,800
Domestic Processing Capacity	1,000	0	153,800	154,800

OY in the Primary Area is set lower than MSY to prevent further reduction of the catch per unit effort of the directed fleets (catch per unit effort is directly proportional to stock abundance on the grounds). OY in the Primary Area is to be equal to domestic annual harvest. This will allow an orderly reduction of incidental catch by the shrimp fleet as more selective shrimp gear is developed.

OY for the Western Grounds is established at 72 percent of its MSY and for the Eastern Grounds at 43 percent. The OY for each area is based below MSY levels because imposition of a high constant harvest on a fluctuating stock may be damaging to the long-term stability of the stock.

Dated: January 28, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-3972 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Part 100

Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964

AGENCY: Department of Education.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: The Secretary of Education withdraws the Notice of Proposed Rulemaking published in the **Federal Register** August 5, 1980 at 45 FR 52052.

On August 5, 1980, the Department of Education published a document proposing certain standards for compliance with Title VI of the Civil Rights Act of 1964. The proposed rules would have applied to recipients that use Federal financial assistance to aid elementary and secondary education programs, and would have required these recipients to identify students having a primary language other than English, to assess their language skills, to provide appropriate services, including bilingual instruction for certain students, and to meet other requirements.

The Department conducted public hearings on these proposed rules in six major cities during September, 1980. More than 4,000 oral and written comments were received. In light of the public comment regarding the proposed rules and the issues raised by that comment, the Department has determined that the proposed rules should not be issued as final regulations. Accordingly, the Notice of Proposed Rulemaking published August 5, 1980, at 45 FR 52052 is withdrawn. All comments received will be carefully considered in any future action taken by the Department.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Louie E. Mathis, Acting Assistant Secretary for Public Affairs, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Dated: January 28, 1981.

Terrel H. Bell,

Secretary of Education.

[FR Doc. 81-3630 Filed 2-2-81; 11:10 am]

BILLING CODE 4000-01-M

Notices

Federal Register
Vol. 46, No. 22
Tuesday, February 3, 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

Feed Grain Donations for the Yankton Sioux Indian Tribe in South Dakota

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Yankton Sioux Indian Tribe in South Dakota has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Yankton Sioux Indian Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members on the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 10, 1981, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on January 28, 1981.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-3043 Filed 2-2-81; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Docket No. 39174]

Guy-America Airways, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to Judge Rodriguez.

Dated at Washington, D.C., January 27, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-3034 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 39174]

Guy-America Airways, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled proceeding is assigned to be held on February 17, 1981, at 9:30 a.m. (local time), Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue, N. W., Washington, D. C., before the undersigned Administrative Law Judge.

Order 81-1-111, adopted January 21, 1981, defined issues to be considered in this investigation. Matters to be discussed at the prehearing conference will include affirmation of the issues, establishing procedural dates for the proceeding, and such other matters as will contribute to the proper and expeditious conduct of the investigation.

Dated at Washington, D.C., January 28, 1981.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 81-3031 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39158]

Wings International Airways, Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., January 28, 1981.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 81-3033 Filed 2-2-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Eastern Industrial Trunk Sewer, Oxnard, California; Intent Not To Issue a Final Environmental Impact Statement

Notice is hereby given that the Final Environmental Impact Statement (EIS) for a proposed industrial trunk sewer project at Oxnard, California, will not be issued. The Draft EIS for the proposal was prepared pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969. The Notice was given on September 28, 1980, that the Draft had been circulated and was available for comment.

After reviewing the comments, the Economic Development Administration (EDA) has concluded that major unacceptable adverse environmental impacts would result if the project were constructed. Therefore, the application has been denied.

The major impacts pointed out by the Environmental Protection Agency, the Governor's Office, the California Resources Agency, Ventura County, the U.S. Fish and Wildlife Service and the U.S. Soil Conservation Service were:

(1) Inconsistency with Federal policy on destroying prime farmland;

(2) Impact on adjacent wetland habitat of endangered species from industrial area storm water runoff;

(3) Incompatibility with the existing Air Quality Maintenance Plan;

(4) Overloading of existing area highways and interchanges as a result of the induced population growth; and

(5) Overloading of the existing wastewater treatment plant designated to serve the project area.

Questions concerning the detailed comments received on the Draft EIS or on EDA's decision not to issue the Final EIS may be addressed to Larry Burr, Environmental Officer, Economic Development Administration, 1700 Westlake Avenue North, Seattle, Washington 98109; phone number 206–442–1675.

Dated: January 29, 1981.

H. W. Williams,

Acting Assistant Secretary for Economic Development.

[FR Doc. 81-3745 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of final results of administrative, review of antidumping finding.

SUMMARY: On September 11, 1980, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on calcium pantothenate from Japan. The review covered all 37 known exporters or transshippers for various time periods up to December 31, 1979. Three additional firms had previously been excluded or exempted from the finding.

Interested parties were given an opportunity to submit written comments or to request an oral hearing on those preliminary results. Based on comments received from various exporters and importers, the Department has made adjustments which resulted in new weighted average margins for 11 of the companies, has exempted 4 additional exporters or transshippers, and has deferred completing review for 6 of the firms. The margins in the preliminary notice remain unchanged for 16 of the 37 exporters or transshippers. The Department disagreed with certain comments received from the petitioner and various importers and exporters.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2209).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, a dumping finding with respect to calcium pantothenate from Japan was published in the Federal Register as Treasury Decision 74–34 (39 FR 2086). On September 11, 1980, the Department of Commerce ("the Department") published in the Federal Register the preliminary results of its administrative review of the finding (45 FR 59933–35). The Department has now completed its administrative review of that antidumping finding.

Scope of the Review

The imports covered by this review are described in the notice of preliminary results. The review covers a total of 37 exporters and transshippers of Japanese calcium pantothenate to the United States. They are listed below. The review does not cover three additional exporters, Fuji Chemical Industries Ltd., Daiichi Seiyaku Co., Ltd., and Takeda Chemical Industries Ltd., which were previously excluded or exempted from the finding. The review covered all time periods up to December 31, 1979, during which shipments of calcium pantothenate may have been made and for which appraisement instructions ("master lists") have not been issued.

The margins cited in the preliminary notice remain unchanged for 16 of the 37 exporters or transshippers. The Department received information that Nippon Roche K.K., identified as a manufacturer in the preliminary notice, is in fact a shipper and exports to the United States to a related party. As a result, the basis of the Department's analysis of Nippon Roche was incorrect and we require additional data before completion of the review for that firm. With five other exporters or transshippers—Eisai Co., Ltd., First Enterprise Inc., Helm, Japan, Deutsch Norwegische GmbH, W. Germany, and Helm, W. Germany—similar situations arose and the Department has decided to defer completion of review for these companies until the 1981 administrative review which commences in January, 1981.

As the Department applied Nippon Roche's calculated margin of 11.52% to non-responding firms, we must use for them a rate other than Nippon Roche's. A total of 10 companies—Isho Inc., Kamiyama Corporation, Sankei Pharmaceutical Co., Ltd., Tass International Inc., Toho Bussan Co., Chemical & Feeds, United Kingdom, Lenk Chemicals Corp., Netherlands, Marsing, W. Germany, Siemsgluss & Sohn, W. Germany, and Siemsgluss A.G., Switzerland—supplied either no information or an inadequate response and submitted no comments. For these exporters or transshippers we proceeded to use the best information available. The best information in this case is the highest rate among all the rates for responding firms in the current period—18.87% ad valorem.

At the time of the preliminary notice we exempted Mitsubishi Corporation and Tanabe Seiyaku Co. from the finding, since each shipped solely merchandise by companies that were previously excluded. In addition, during the comment period one Japanese exporter, Chugai Boyeki, and one transshipper, Chemeta BV, Netherlands, each presented adequate evidence that its sole supplier is a firm previously excluded from the finding, and that each acts solely as an agent for that firm. Accordingly, these four firms are not covered by the finding. The Department learned that one transshipper, Chemical & Feeds Ltd., W. Germany, went out of business in 1979. For this one transshipper we used the best information available for entries made during the period of review and which have not been liquidated.

The petitioner and various importers and exporters submitted several comments for which we have made no adjustment. The petitioner alleged that sales were being made at less than cost of production but provided insufficient supporting evidence. Therefore, we have no basis for investigating such an allegation. Certain interested parties requested an adjustment for differences in the quantities sold in the home market and for export to the U.S. While the Department agrees that such an adjustment is valid in principle, without quantitative support we will not allow it. Supporting evidence was not provided. Two of these parties also claimed that third country sales rather than home market sales should have been our basis for comparison of sales of d-calcium pantothenate manufactured by Alps Pharmaceutical Co., Ltd. for the period April 1, 1978 through March 31, 1979, since home market sales of d-calcium pantothenate constituted only 3% of total sales. The Department determined that the d and dl calcium pantothenate are such or similar merchandise for purposes of this proceeding, and, as a result, the home market sales were sufficient.

Final Result of the Review

As a result of adjustments made based on our analysis of comments received, we determine that the following weighted average margins exist:

A. Japanese Company

Exporter and manufacturer	Time period	Margin (percent)
1. Agropol Ltd	6/1/73–12/31/79	4.27
2. Alps Pharmaceutical Co., Ltd	4/1/78–3/31/79	
	4/1/79–12/31/79	14.42
		0
3. Byron Chemical Co./Alps	4/1/79–12/31/79	8.8
4. Chugai Boyeki Co	8/8/73–12/31/79	0
5. Eisai Co., Ltd	6/8/73–12/31/79	2.58
6. Fallek Chemical/Alps	4/1/78–3/31/79	
	4/1/79–12/31/79	25.13
		[1] 25.13
7. First Enterprise Inc	6/8/73–12/31/79	2.58
8. Fukutaken Sangyo/Alps	4/1/79–12/31/79	8.8
9. Helm	6/8/73–12/31/79	2.58
10. Isho Inc./Alps	4/1/78–3/31/79	
	4/1/79–12/31/79	6.42
		16.87
11. Iwaki/Alps	4/1/78–3/31/79	
	4/1/79–12/31/79	0
		0
12. Kamiyama Corp	4/1/79–12/31/79	16.87
13. Kishimoto Trading Co./Alps	4/1/79–12/31/79	3.02
14. Kowa/Alps	4/1/79–12/31/79	1.87
15. Marubeni Corp	4/1/79–12/31/79	3.97
16. Maruzen Chemicals Co	6/8/73–12/31/79	9.57
17. Mitsubishi Corp./Daiichi Seiyaku Co	4/1/79–12/31/79	0
18. Mitsui & Co./Alps	4/1/78–3/31/79	
	4/1/79–12/31/79	24.54
		16.87
19. Nippon Roche K.K	4/1/79–12/31/79	2.58
20. Sankei Pharmaceutical Co., Ltd	8/8/73–12/31/79	16.87
21. Sankyo Co., Ltd	4/1/79–12/31/79	3.96
22. Shinonogi Seiyaku	4/1/78–3/31/79	
	4/1/79–12/31/79	11.91
		[1] 11.91
23. Tanabe Seiyaku Co./Fuji Chemical Ind. Ltd	6/8/73–12/31/79	0
24. Tass International Inc	6/8/73–12/31/79	16.87
25. Toho Bussan Co	6/8/73–12/31/79	16.87
26. Tomen/Alps	4/1/79–12/31/79	0
27. Toyo Menka Kaisha	8/8/73–12/31/79	1.87

[1] No shipments during this period.

B. Transshippers

Company and country	Time period	Margin (percent)
1. Chemeta B.V./Netherlands	6/8/73–12/31/79	0
2. Chemical & Feeds Ltd./United Kingdom	8/8/73–12/31/79	16.87
3. Chemical & Feeds/W. Germany	6/8/73–12/31/79	0
4. Deutsch Norwegische GmbH/W. Germany	8/8/73–12/31/79	2.58
5. Gurvey & Berry/Canada	8/8/73–12/31/79	0
6. Helm/W. Germany	6/8/73–12/31/79	2.58
7. Lenk Chemicals Corp./Netherlands	6/8/73–12/31/79	16.87
8. Marsing/W. Germany	8/8/73–12/31/79	16.87
9. Siemsgluss & Sohn/W. Germany	6/8/73–12/31/79	16.87
10. Siemsgluss A.G./Switzerland	6/8/73–12/31/79	16.87

For all exporters or transshippers for which we have completed our review, the Department shall determine, and the U.S. Customs Service shall assess, duties on all entries with purchase dates or export dates, as appropriate, during the periods involved. Individual value differences between purchase price and foreign market value may vary from the percentages stated above.

The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by section 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. As mentioned above, we will complete our review of six companies as part of our 1981 administrative review. Until that time the cash deposit for these companies will be 2.58%, which is the weighted average margin of the most recent responses of the responding firms.

These deposit requirements will remain in effect until publication of the final results of the next administrative review. The Department intends to conduct another administrative review prior to the next anniversary of the date of publication of the finding.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1) and § 353.53 of Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

January 29, 1981.

[FR Doc. 81-3686 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-25-M

Expanded Metal of Base Metal From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 24, 1980 the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on expanded metal of base metal from Japan. The review covered separate time periods to December 31, 1979 for the twenty-nine exporters.

Interested parties were given an opportunity to submit written comments or to request a hearing on these preliminary results. No comments or requests were received.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2704).

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1974, a dumping finding with respect to expanded metal of base metal from Japan was published in the Federal Register as Treasury Decision 74-29 (39 FR 1979).

On November 24, 1980, the Department of Commerce ("the Department") published in the Federal Register a "Notice of Preliminary Results of Administrative Review of Antidumping Finding" for twenty nine exporters (45 FR 77501-02). The Department has now completed its administrative review of that antidumping finding for those twenty-nine exporters.

Scope of the Review

The imports covered by this review are shipments of expanded metal of base metal currently classifiable under item 652.8000 of the Tariff Schedules of the United States Annotated (TSUSA). The review covered all time periods not previously covered by appraisement instructions ("master list") up to December 31, 1979. The Department received no written comments with respect to the publication of the preliminary results. The Department will publish shortly a "Notice of Preliminary Results of Administrative Review of Antidumping Finding" with respect to four remaining exporters.

Final Results of the Review

As a result of our comparison of purchase price to foreign market value (previously described in "Notice of Preliminary Results"), we determine that the following weighted-average margins exist:

Japanese exporter	Time period	Margin (percent)
Daikure Co., Ltd	1-1-75/12-31-79	[1] 4
Daishin Kogyo Co	9-5-73/12-31-79	[1] 4
Daitoku Trading Co., Ltd	11-1-78/12-31-79	4
Eiko Co., Ltd	1-1-77/3-31-79	
	4-1-79/12-31-79	3.8
		[1] 4
Fuji Shoko Co., Ltd	9-5-73/12-31-79	4.9
Hanwa Co., Ltd	4-1-78/12-31-79	.33
Itohtaka International Corp	1-1-75/12-31-78	
	1-1-77/12-31-79	3.8
		4.9
Kanebo Steel Co., Ltd. (a.k.a. Kanebo Bldg. & Mfg. Ltd.)	11-1-76/12-31-79	[1] 4.9
Kanematsu-Gosho Ltd	1-1-75/12-31-79	[1] 4
Kansai Tekko Co., Ltd	9-5-73/3-31-74	
	4-1-74/3-31-75	
	4-1-75/11-30-78	
	12-1-76/3/31/78	
	4-1-78/9-30-78	
	10-1-78/12-31-79	2.7
		1.7
		0
		0
		0
		.83
Kawamoto & Co., Ltd	4-1-78/12-31-79	4.9

Japanese exporter	Time period	Margin (percent)
Kawashige Kozai Co., Ltd	4-1-78/3-31-79	
	4-1-79/12-31-79	4.97
		4.9
Kawasho Corp.	11-1-76/3-31-78	4.9
(mfg. Kaneko)	4-1-78/12-31-79	4.9
(mfg. Nippon Steel)	4-1-78/12-31-79	.33
Kobayashi Metals Ltd.	4-1-78/12-31-79	[1] 4
Marubeni Corp.	4-1-78/3-31-79	
	4-1-79/12-31-79	[1] .33
Mitsubishi Corp	12-1-76/3-31-78	
	4-1-78/9-30-78	
	10-1-78/12-31-79	0
		0
		.83
Mitsui & Co., Ltd.	1-1-77/12-31-79	4.9
Murata Chemical Co., Ltd.	9-1-73/6-30-74	
	7-1-74/10-31-76	
	11-1-76/9-30-78	
	10-1-78/12-31-79	0
		4.9
		4.9
		[1] 4.9
Naukaumi Kogyo Ltd.	4-1-78/12-31-79	4.9
Nichimen Co., Ltd.	1-1-75/3-31-79	
	4-1-79/12-31-79	[1] 4.9
		4.9
Nippon Steel Products Co., Ltd.	3-1-74//8-31-74	
	4-1-78/3-31-79	
	4-1-79/12-31-79	[1] 3.8
		0
		.33
Nissho Iwai Co., Ltd.	4-1-78/12-31-79	[1] .33
Nittetsu Shoji Co., Ltd.	4-1-79/12-31-79	[1] .33
Sansho Kohki Co., Ltd. & Shinwa Kohki (shipper)	1-1-77/3-31-78	
	4-1-78/3-31-79	
	4-1-79/12-31-79	12.7
		6.6
		4
Sumikan Bussan Kaisha, Ltd.	1-1-75/12-31-79	[1] 4
Sumitomo Shoji Kaisha, Ltd.	1-1-75/12-31-76	0
(a.k.a. Sumitomo Corp.)	1-1-77/3-31-78	
	4-1-78/3-31-79	
	4-1-79/12-21-79	12.7
		6.6
		4
Sunkenko Corp	1-1-77/12-31-79	[1] 4
Taisei International Corp.	1-1-76/12-31-76	
	1-1-77/12-31-79	0
		4.9
Toyo Menka Kaisha, Ltd.	1-1-75/10-30-76	
	1-1-76/3-31-79	
	4-1-79/12-31-79	4.9
		/1/ 4.9

[1] No shipments during current period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries made with purchase dates during the time periods involved. Individual differences between purchase price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations a cash deposit based on the most recent of the margins calculated above shall be required on all shipments from the twenty-nine exporters entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review prior to the next anniversary of the date of publication of the Order.

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 section 353.53 of the Commerce Regulations (19 CFR 353.53).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

January 29, 1981.

[FR Doc. 81-3887 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-25-M

Indelco Inc.; Order

The Office of Export Administration, International Trade Administration, United States Department of Commerce, having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401, *et seq.*) and Part 388 of the Export Administration Regulations (44 FR 59897, October 17, 1979) against Indelco Inc. ("Indelco") based on allegations that Indelco violated §§ 387.2, 387.4 and 387.6 of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1979)) (the "Regulations"); and

The Department and Indelco having entered into a Consent Agreement whereby Indelco has agreed to settle this matter by payment of a civil penalty in the amount of $9,100 and by undertaking certain corrective measures to ensure compliance with the Regulations; and

The Deputy Assistant Secretary for Export Administration having approved the terms of the Consent Agreement in complete settlement of the matter;

It is therefore ordered,

First, that a civil penalty in the amount of $9,100 is assessed against Indelco;

Second, that Indelco, pursuant to Section 11(c)(1) of the Act, pay to the Department, within 20 days of the service of this Order and in the manner specified in the attached instructions, the sum of $9,100;

Third, that Indelco shall be place on probation for a period of one year from the date of entry of this Order;

Fourth, that Indelco shall take the measures specified in the Consent Agreement, incorporated herein by reference, to ensure future compliance;

Fifth, that the proposed Charging Letter and the Consent Agreement be made available to the public and this Order be published in the Federal Register; and

Sixth, that Indelco submit a report to the Director, Compliance Division, Office of Export Administration, within six months after the date of entry of this Order specifying in detail the steps it has taken to implement the corrective measures specified in the Consent Agreement.

Entered this 21st day of January 1981.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 81-3099 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-17-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit To Take, Export, and Reimport Marine Mammals; Dr. Paul Gleeson

Notice is hereby given that an Applicant has applied in due form for a Permit to take, export and reimport marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Dr. Paul Gleeson (P267)

b. Address: Laboratory of Archaeology and History, Washington State University, Pullman, Washington 99164

2. Type of Permit: Scientific research/Scientific purposes.

3. Name and Number of Animals:

Finback, *Balaenoptera physalus*, unspecified
Gray Whale, *Eschrichtius robustus*, unspecified
Harbor Seal, *Phoca vitulina*, unspecified
Common Dolphin, *Delphinus delphis*, unspecified
Humpback Whale, *Megaptera novaeangliae*, unspecified
Minke Whale, *Balaenoptera acutorostrata*, unspecified
Elephant Seal, *Mirounga angustirostris*, unspecified
Northern Fur Seal, *Callorhinus ursinus*, unspecified
Sei Whale, *Balaenoptera borealis*, unspecified
Right Whale, *Balaena australis*, unspecified
Sperm Whale, *Physeter catodon*, unspecified
Killer Whale, *Orcinus orca*, unspecified
California Sea Lion, *Zalophus californianus*, unspecified

4. Type of Take: Preparation of bones as tools for comparison with archeological whale bone artifacts. Permit requested for possession of scientific specimens and to export and reimport them.

5. Location of Take/Importation: Specimens to be prepared from stranded animals as available on Washington coast beaches/export as scientific specimens and reimport into the United States.

6. Period of Take: As specimens are available in strandings.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109.

Dated: January 28, 1981.

R. B. Brumsted,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 81-3971 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss amendment #3 to the Surf Clam/Ocean Quahog Fishery Management Plan (FMP), status of other FMP's foreign fishing applications, and other fishery management and administrative matters.

DATES: The meetings, which are open to the public will convene on Wednesday, March 4, at approximately 1 p.m., and will adjourn on Friday, March 6, 1981, at approximately noon. The meetings may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: January 29, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-3968 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), will meet to discuss the fishery management plans for lobster, groundfish, and herring and reports (environmental affairs, Mid-Atlantic Council and New England Council's Scientific and Statistical Committee), as well as other business.

DATES: The meetings, which are open to the public, will convene on Tuesday, February 24, 1981, at approximately 10 a.m., and will adjourn on Wednesday, February 25, 1981, at approximately 5 p.m. The meetings may be lengthened or shortened or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meetings will take place at the King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: January 29, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-3967 Filed 2-2-81; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council, its Scientific and Statistical Committee and its Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) to assist the Council in carrying out its responsibilities under the Act. The Council, its SSC and AP will hold public meetings.

DATES: The Council meeting will convene on Thursday, February 26, 1981, at approximately 9 a.m., and will adjourn on Friday, February 27, 1981, at approximately 5 p.m., at the Westward Hilton Hotel, Anchorage, Alaska. The SSC meeting will convene on Tuesday, February 24, 1981, at approximately 9 a.m., and will adjourn on Wednesday, February 25, 1981, at approximately 2 p.m., at the Council's Headquarters Conference Room, 333 W. Fourth Avenue, Anchorage, Alaska. The AP meeting will convene on Wednesday, February 25, 1981, at approximately 9 a.m., and will adjourn at approximately 5 p.m., in the Kenai/Aleutian Room of the Westward Hilton Hotel, Anchorage, Alaska. These meetings may be lengthened or shortened depending upon progress on the agenda items, and are open to the public.

PROPOSED AGENDA: *Council*—A detailed agenda will be sent to the public around February 11, 1981. The Council will hear technical reports on catches by domestic and foreign fisheries, Coast Guard enforcement and surveillance, U.S.-Canada salmon negotiations, Soviet cooperative research, Law of the Sea, Coast Guard safety standards, and Council work groups on joint venture data and crab pot storage. The Council will consider the 1981 proposed amendments to the Bering Sea/Aleutian Islands and the Gulf of Alaska Groundfish Fishery Management Plans (FMP's) and the King Crab FMP. It will also consider Bering Sea/Aleutian groundfish proposals concerning methods for establishing optimum yield, increased in-season authority of the Regional Director of the National Marine Fisheries Service, increased domestic allocation of harvest to accommodate joint ventures and area closures to protect herring and salmon in winter. The Council will discuss but take no formal action on alternatives for minimizing the catch of incidental

species. Gulf of Alaska groundfish proposals for 1981 include alternative schemes for closing areas in the Eastern Regulatory Area of the Gulf to foreign trawlers. The Council also will consider alternatives for managing the kind crab fishery off Alaska. Given Council approval, the 1981 proposed groundfish amendments and the King Crab FMP will go to the Secretary of Commerce to commence formal Secretarial review. The Council will also discuss various aspects of salmon limited entry. However, no formal actions are anticipated on the Salmon FMP or the Herring and Tanner Crab FMP's. The Council will also consider various contracts and research proposals.

SSC and *AP*—Agendas will be similar to the Council's.

FOR FURTHER INFORMATION CONTACT:
North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: January 29, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81–3970 Filed 2–2–81; 8:45 am]

BILLING CODE 3510–22–M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to review the status of and discuss various aspects of the Billfish, Coral, Sea Scallops, Calico Scallops, Shrimp, Spiny Lobster, and Swordfish Fishery Management Plans, other management business as necessary and administrative matters a appropriate.

DATES: These public meetings will convene on Tuesday, February 24, 1981, at approximately 1:30 p.m., and will adjourn on Thursday, February 26, 1981, at approximately noon.

ADDRESS: The meetings will take place at the Council's Headquarters, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT:
South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: January 29, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81–3969 Filed 2–2–81; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Intent To Grant Limited Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Hoffman-La Roche, Inc. a limited exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Methods for Use of Orally Administered 13-Cis Retinoic Acid for Treatment of Dermatrophies." The invention is protected by U.S. Patent Application No. 63,770 (dated August 6, 1979). Copies of the application may be purchased from NTIS, Springfield, VA 22161 at five dollars per copy.

The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Health and Human Services. Custody of the right to license this invention has been transferred to the Secretary of Commerce.

The availability of this invention for licensing was announced in the **Federal Register** (45 FR 3364; January 17, 1980); *Government Inventions for Licensing* (December 18, 1979); and the Patent and Trademark Office's *Official Gazette* (March 11, 1980). To date, these and other promotional efforts have not resulted in any applications for nonexclusive licenses under this patent.

The proposed limited exclusive license will be royalty-bearing and will expire five years from the date of New Drug Approval by the Food and Drug Administration of the products embodied in the invention (but not more than eight years from the effective date of the license agreement). The terms and conditions of the license will comply with 35 U.S.C. 209 (Pub. L. 96–517) and 41 CFR 101–4.1.

The proposed license may be granted unless, on or before April 6, 1981, NTIS receives (1) an application for a nonexclusive license from a responsible applicant intending to practice the invention in the United States and NTIS determines that such applicant is likely to bring the invention to the point of practical application within a reasonable period of time; or (2) written evidence and argument which establishes that the grant of the proposed limited exclusive license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed limited exclusive license must be submitted to the Office of Government Inventions and Patents, NTIS, Springfield, VA 22161. 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 (including the basis therefor).

Dated: January 26, 1981.

Melvin S. Day,

Director.

[FR Doc. 81–3892 Filed 2–2–81; 8:45 am]

BILLING CODE 3510–04–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 80–5]

Jukebox Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

EFFECTIVE DATE: January 30, 1981.

FOR FURTHER INFORMATION CONTACT:
Clarence L. James, Jr., Chairman, Copyright Royalty Tribunal, (202) 653–5175.

SUPPLEMENTARY INFORMATION: Pursuant to 17 U.S.C. 116(c)(3), the Tribunal published in the **Federal Register** (44 FR 53099, Sept. 12, 1979) that a controversy existed concerning the distribution of jukebox royalty fees deposited for 1979 performances and commenced a proceeding to determine the distribution of such royalty fees. The Tribunal directs claimants or their duly authorized representatives to submit proposals on the structure and procedures of the distribution proceedings to the Tribunal no later than February 13, 1981. Reply comments, if any, on any submitted proposals, shall be submitted no later than February 27, 1981. There will be a conference of claimants or their authorized representatives to discuss the structure and procedures of the distribution proceedings at 11:00 A.M., March 10, 1981 at the Vanguard Building, 1111 20th St., NW., Room 450, Washington, D.C.

Clarence L. James, Jr.

Chairman.

[FR Doc. 81–3944 Filed 2–2–81; 8:45 am]

BILLING CODE 1410–07–M

DEPARTMENT OF DEFENSE

Department of the Army

The Ongoing Siting and Mission Activities at Fort Benning, Ga; Filing of Environmental Impact Statement

The Army, on January 29, 1981, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) for the ongoing siting and mission activities at Fort Benning, Goergia. The alternatives of maintaining, discontinuing, or changing missions at Fort Benning are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, US Army Infantry Center and Fort Benning, ATTN: ATZB-FE-EM, Fort Benning, GA 31905.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694-3434.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 81-3947 Filed 2-2-81; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Advisory Group on Electron Devices; Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session on February 24, 1981, at the Palisades Institute for Research Services, AGED, 1925 N. Lynn St., Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, § 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 29, 1981.

M. S. Healy,

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

[FR Doc. 81-3936 Filed 2-2-81; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Transfer of DOE/NSF Nuclear Science Advisory Committee to Department of Energy

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that transfer of the DOE/NSF Nuclear Science Advisory Committee from the National Science Foundation to the Department of Energy is in the public interest in connection with the performance of duties imposed upon the Department of Energy by the Department of Energy Organization Act (Pub. L. 95-91) and other applicable law. This determination follows consultation with the General Services Administration and is consistent with the Federal Advisory Committee Act and Office of Management and Budget Circular No. A-63 (Revised).

The DOE/NSF Nuclear Science Advisory Committee (NSAC) will provide advice to both the Department of Energy and the National Science Foundation upon scientific priorities within the field of basic nuclear research. Basic nuclear research is understood to encompass experimental and theoretical investigations of the fundamental interactions, properties, and structure of atomic nuclei. NSAC activities will include assessment of and recommendations concerning:

a. Objectives, directions, and development of the field of basic nuclear research;

b. Adequacy of present facilities and the need and relative priority for new facilities;

c. Facility and instrumentation development programs needed to advance the field;

d. Institutional balance of support for optimized scientific productivity and training of nuclear scientists;

e. Relationships of basic nuclear research with other fields of science.

In addition, NSAC will conduct specialized studies when requested by the agencies. These studies will be published as reports, if appropriate.

Further information concerning this Committee can be obtained from the Advisory Committee Management Office (202-252-5187).

Dated: January 29, 1981.

Tina Hobson,

Advisory Committee Management Officer.

[FR Doc. 81-3964 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-045]

Fruehauf Corp., Kelsey-Hayes Company, Sedalia Plant; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On December 18, 1980, Fruehauf Corporation (Fruehauf), Kelsey-Hayes Company, 38481 Huron River Drive, Romulus, Michigan 48174, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligible use of up to 105,000 Mcf of nautrual gas per year estimated to displace the use of approximately 735,000 gallons (17,500 barrels) of No. 2 fuel oil (0.2 percent maximum sulfur) at the Sedalia Plant located in Sedalia, Missouri. The eligible seller of the natural gas is Frue-Kel, Inc., a subsidiary of Fruehauf Corporation. Although the Sedalia Plant will have no direct transportation agreement with an interstate pipeline for transportation of natural gas in connection with this transaction, the seller, Frue-Kel, Inc., will enter into such as agreement with Columbia Gas Transmission Corporation, Panhandle Eastern Pipeline Company, Kansas-Nebraska Natural Gas Company, and Cities Service Gas Company. Additionally, the Missouri Public Service Company will be the local distribution company. Notice of that application was published in the Federal Register (46 FR 2170, January 8, 1981), and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Fruehauf's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Fruehauf's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted

that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., January 29, 1981.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 81–3955 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

J.A.L. Oil Co., Inc., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to J.A.L. Oil Company, Inc., 17 Barstow Road, Great Neck, New York 11021. This Proposed Remedial Order charges J.A.L. with pricing violations in the amount of $25,140.30, connected with the sale of gasoline during the period from November 1, 1979 through April 8, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, District Manager of Enforcement, (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 'M' Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 31st day of December 1980.

Edward F. Momorella,

District Manager, Northeast District Enforcement.

[FR Doc. 81–3956 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

Post Petroleum Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Post Petroleum Co., Sacramento, California. This Proposed Remedial Order charges Post Petroleum Co. with pricing violations in the amount of $13,718, connected with the resale of motor gasoline during the time period April 1, 1979 through May 30, 1979 and the time period August 1, 1979 through September 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted may be obtained from Lon W. Smith, District Manager of Enforcement, Department of Energy, 333 Market Street, San Francisco, California 94105, phone (415) 764–7038. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M. Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, California, on the 17th day of December 1980.

Lon W. Smith,

District Manager of Enforcement, Western District.

[FR Doc. 81–3957 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

Taverna Fuel Company, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (EFA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Taverna Fuel Company, Inc., 7 North Street, Staten Island, New York 10310. This Proposed Remedial Order charges Taverna with pricing violation in the amount of $351,671.43, connected with the sale of No. 2 heating oil during the period from November 1, 1973 through March 31, 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, District Manager of Enforcement, (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W. Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 31st day of December 1980.

Edward F. Momorella,

District Manager, Northeast District Enforcement.

[FR Doc. 81–3958 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA and the firms listed below concerning failure to meet the filing requirements of Form ERA–69, Crude Oil Reseller's Self-Reporting Form, as set forth in the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart L. Pursuant to 10 CFR 205.203, each of the consenting firms has agreed to make the payments specified below. The Consent Orders do not address or limit any liability with respect to the consenting firms except as related to the requirement to file Form ERA–69. The consenting firms agreed to comply with the reporting requirements of 10 CFR 212.187 by filing any overdue reports promptly and all future monthly reports on or before their due dates.

For further information regarding these Consent Orders, please contact: Larry G. Harris, Supervisory Auditor, Crude Oil Reseller Program, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, N.W., Washington, D.C. Telephone Number (202) 653–3517.

Issued in Washington, D.C., on the 28th day of January 1981.

Robert D. Gerring,

Director, Program Operations Division.

Consent Orders

Firm	Address	Date	Payment pursuant to 10 CFR 205.203
Adolph Coors Co	P.O. Box 467, Golden, CO 80401	10/23/80	$1,500.00
Goldking Refining Co	921 Main, Suite 1900, Houston, TX 77002	10/29/80	6,000.00
Petro-Thermo Corp	Broadmoor Bldg., Suite 260, Hobbs, NM 88240	12/04/80	150.00
Joneses Tank Trucks, Inc	P.O. Box 225, Washington, OK 73093	12/10/80	100.00
Dalco Petroleum Corp	2431 East 51st Street, Tulsa, OK 74105	12/16/80	15,000.00
Transco Trading Co	613 Commercial Bank, Midland, TX 79701	12/19/80	4,500.00

[FR Doc. 81–3975 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2146]

Alabama Power Co.; Application for Approval of Change in Land Rights

January 28, 1981.

Take notice that an application was filed on August 25, 1980, under the Federal Power Act, 16 U.S.C. 791(a)–825(r) by Alabama Power Company, License for the Coosa River Project No. 2146, for approval of a change in land rights for the H. Neely Henry Development. The project is located in Elmore, Chilton, Coosa, Shelby, Talladega, Saint Clair, Calhoun, Etowah and Cherokee Counties, Alabama and Floyd County, Georgia. The Licensee proposes to construct, operate and maintain a dry ash disposal facility for the E.C. Gaston Steam Electric Generating Plant on an area adjacent to Lay Reservoir. Licensee seeks Commission approval to remove some 26 acres of land from the project to form part of the 60 acre dry ash facility. The lands involved are located at the upper portion of Lay Reservoir, in Shelby County, Alabama. The Licensee states in the application that removal of the lands from the project area would not significantly affect the recreational use of the project.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before March 16, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-3703 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-128-000]

Great Lakes Gas Transmission Co.; Application

January 27, 1981.

Take notice that on December 31, 1980, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP81-128-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations under the NGPA.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 3, 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 Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-3704 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3730-000]

Henwood Associates, Inc.; Application for Preliminary Permit

January 28, 1981.

Take notice that Henwood Associates, Inc. (Applicant) filed on November 13, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3730 to be known as Salmon Creek Project located on Sardine Creek and Salmon Creek in Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Dr. Kenneth Henwood, Henwood Associates, Inc., P.O. Box 7, Smartville, California 95977. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the repair of an existing 20-foot high and 100-foot long rock dam; (2) a new 6-foot high and 30-foot long concrete gravity diversion dam; (3) a pipeline; (4) a 30-foot wide and 100-foot long forebay; (5) an 8-foot high and 35-foot long concrete diversion dam; (6) a 5,700-foot long steel penstock; (7) a 30-foot wide and 35-foot long powerhouse containing one generating unit rated at 1,275 kW; (8) a 500-foot long transmission line; and appurtenant facilities. The Applicant estimates that the average annual energy output would be 6.7 million kWh.

Purpose of Project—The energy output of the project would be sold to the Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 12

months, during which time it would conduct engineering studies, conduct environmental studies, make a feasibility analysis, and prepare an FERC license application. No new roads would be required to conduct the studies. The estimated cost of the work to be performed under the preliminary permit is $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 3, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 3, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3730. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-3705 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3778-000]

Hydro Development, Inc.; Application for Preliminary Permit

January 27, 1981.

Take notice that Hydro Development, Inc. (Applicant) filed on November 25, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3778 to be known as Trinity Tunnel Project located on the Trinity River 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. Howard L. Stone, Hydro Development, Inc., Suite 711, Kirkeby Center, 10889 Wilshire Boulevard, Los Angeles, California 90024. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing concrete inlet box; (2) an existing 9-foot diameter tunnel, approximately 500 feet long; (3) a new semicircular concrete intake structure at the tunnel outlet; (4) a penstock; (5) a powerhouse mounted atop the intake structure containing one generating unit rated at 600 kW; (6) a control shed; and (7) a 1.5-mile long transmission line. The proposed run-of-the-river project would affect U.S. lands within Trinity National Forest. The Trinity River is included in the California Wild and Scenic Rivers System and is also being considered for the Federal Wild and Scenic Rivers System. The Applicant estimates that the average annual energy output would be 4,500,000 kWh.

Purpose of Project—The energy produced by the project would be sold to the Pacific Gas and Electric Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct geotechnical and engineering studies, perform preliminary designs, conduct environmental and cultural studies, make a feasibility analysis, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the studies to be performed under the preliminary permit is estimated to be $125,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 5, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", OR "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3778. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-3706 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3858-000]

Idaho Renewable Resources, Inc. and City of Ashton; Application for Preliminary Permit

January 28, 1981.

Take notice that Idaho Renewable Resources, Inc. and City of Ashton (Applicant) filed on December 10, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3858 to be known as Dietrich Drop Project located on Milner Gooding Canal in Lincoln 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. J. R. Bingham, Idaho Renewable Resources, Inc., 415 Wright Bros. Way, Salt Lake City, Utah 84122. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) excavation of the existing Milner Gooding Canal; (2) an intake structure; (3) a 1,000-foot long, 10-foot diameter penstock; (4) a powerhouse containing two generating units each rated at 4-MW; (5) a 1,600-foot long discharge canal; and (6) a transmission line. The Applicant estimates that the average annual energy output would be 38,000,000 kWh.

Purpose of Project—The energy output of the project would be sold to the Idaho Power Company.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would negotiate rights, conduct engineeering and environmental studies, prepare preliminary designs, consult with agencies, make a feasibility analysis, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be performed under the preliminary permit is estimated to be $105,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 5, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", NOTICE OF INTENT TO FILE COMPETING APPLICATION", COMPETING APPLICATION",

"PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3858. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-3707 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-131-000]

Michigan Wisconsin Pipe Line Co.; Application

January 27, 1981.

Take notice that on January 5, 1981, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP81-131-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon gas transportation service for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to abandon the gas transportation service for Natural which was performed pursuant to a transportation agreement dated September 28, 1979. Applicant asserts that it was authorized by Commission order dated January 17, 1980, to transport up to 80,000 Mcf of natural gas per day for the winter period November 1, 1979, through April 1, 1980, and for five consecutive winter periods thereafter at a rate of $45,600 per month.

Pursuant to a termination letter dated June 10, 1980, Applicant states that it agreed to terminate such service on November 1, 1980. Applicant submits that because Natural has been authorized by Commission order dated June 24, 1980, in Docket No. CP80-220 to expand its facilities, the aforementioned transportation service is no longer necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 3, 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-3708 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-112-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

January 27, 1981.

Take notice that on December 23, 1980, Northern Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-112-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Phillips Petroleum Company (Phillips), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a letter agreement dated October 27, 1980, Applicant proposes to sell up to 2,500,000 Mcf of natural gas to Phillips. Applicant asserts that the proposed sale represents imbalance volumes incurred under a Gray County gas exchange agreement dated July 17, 1968, which provides for the balancing of the exchange at least once during each 12-month period. As of October 1, 1980, Applicant states that Phillips owed Applicant approximately 1,900,000 Mcf of natural gas.

Applicant states that it would sell to Phillips the accrued imbalance volumes and future imbalance volumes under the Gray County exchange until a total of 2,500,000 Mcf of gas has been sold. Phillips would pay Applicant $2.20 per Mcf of gas purchased which price was negotiated between the parties, it is stated.

It is further stated that should Applicant receive the required authorization for this sale to Phillips while its Docket No. RP80-88 settlement rates are in effect then any such sales volumes would be included in the calculation of Applicant's sales refund obligation pursuant to Section III of the Stipulation and Agreement in Docket No. RP80-88 filed with the Commission on December 15, 1980.

Applicant contends that this sale would facilitate management of Applicant's gas supply without detriment or disadvantage to its current customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 3, 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 Energy Regulatory Commission by

Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-3709 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-118-000]

Northwest Pipeline Corp.; Application

January 27, 1981.

Take notice that on December 29, 1980, Northwest Pipeline Corporation (Applicant), 315 East Second Street South, Salt Lake City, Utah 84111, filed in Docket No. CP81-118-000 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 two new delivery points, one to Washington Water Power Company (Water Power) and one to Intermountain Gas Company (Intermountain), 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 a delivery point for Water Power in accordance with the request of Water Power's customer Mr. Orville Koch in order to provide residential service. Applicant states it would construct a hot tap on its Coeur d'Alene lateral line in Spokane County, Washington, and that the estimated annual service would be 1,427 Mcf with peak day volumes of 6 Mcf. It is stated that the volumes of natural gas sold and delivered at the proposed delivery point would be from quantities of natural gas heretofore authorized for sale to Water Power at various main line taps in Spokane County, Washington, under Applicant's Rate Schedule ODL-1.

Applicant also proposes to construct and operate an additional tap at the Idaho State Penitentiary Meter Station located adjacent to Applicant's 22-inch mainline in Ada County, Idaho. It is stated that intermountain has requested the tap to meet increasing demand caused by a shift in the growth pattern of residential and commercial customers within Boise, Idaho. Applicant states that the daily delivery volume requirements for the additional tap is estimated to be 13,235 Mcf per day maximum and a minimum of 2,100 Mcf per day.

It is stated that Intermountain has agreed to reimburse Applicant for all reasonable costs incurred relative to the new delivery point which costs are estimated to be $2,500. Applicant states that Intermountain maintains that said changes would not jeopardize existing sales nor impair existing deliveries, but would increase the reliability of service for existing and future customers served through the subject delivery point. The proposed revision is as follows:

Delivery points	Presently effective (therms)	Increase (decrease) (therms)	Proposed (therms)
Nampa	343,680	(79,480)	264,200
Meridian and Boise	94,000	(21,720)	72,280
Caldwell, Middleton and Boise	163,900	(37,900)	126,000
Idaho State Penitentiary	12,100	139,100	151,200
Totals	613,680		613,680

It is stated that no increase in Water Power's or Intermountain's presently authorized daily contract demand under Applicant's Rate Schedule ODL-1 is contemplated or proposed herein.

Any person desiring to be heard to or make any protest with reference to said application should on or before February 3, 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 Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 81-3710 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-123-000]

Southern Natural Gas Co.; Application

January 27, 1981.

Take notice that on December 30, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP81-123-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a compressor station located offshore Louisiana by sale to ARCO Oil and Gas Company, a Division of Atlantic Richfield (ARCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed abandonment is an integral part of an enhanced oil recovery project (project) proposed by ARCO with respect to natural gas produced in South Pass Block 61 field, offshore Louisiana (Block 61). Applicant states that ARCO originally was authorized to sell to Applicant 50 percent of the gas produced from Block 61 but that ARCO has since proposed the temporary cessation of gas sales from the field so that the entire production can be utilized while the project is in effect. Applicant asserts that pursuant to an August 25, 1980, letter of intent ARCO would replace the gas which Applicant was entitled to purchase from Block 61 with gas from Block 107, Eugene Island area, offshore Louisiana. It is further stated that ARCO would provide Applicant with a preferential right to purchase any uncommitted gas ARCO may have or which it may have after discoveries in certain designated areas up to an aggregate of 90,000,000 Mcf of proven reserves. Applicant contends that there

would not be an adverse impact on the availability of current gas supply because ARCO has agreed to replace the gas Applicant was entitled to receive and promised Applicant significant quantities of new gas reserves. Applicant further purports that its customers would directly benefit from the project since it in effect postpones the delivery of the South Pass Block 61 field gas until after the completion of ARCO's proposed project in the late 1990's when Applicant projects that it would need additional deliverability to service its high priority customers.

To effectuate the project, Applicant proposes to sell its 12,500 horsepower compressor station located on ARCO's production "B" platform in South Pass Block 60, offshore Louisiana, to ARCO. It is stated that in addition to using the compressor for its project, ARCO has agreed that upon completion of the project when Applicant begins the sale of the Block 61 gas again ARCO would compress such gas for Applicant; thus, there would be no change in service as a result of the proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secetary.

[FR Doc. 81-3711 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3801-000]

The City of Yelm, Washington and Pacific Hydro, Inc.; Application for Preliminary Permit

January 28, 1981.

Take notice that The City of Yelm, Washington and Pacific Hydro, Inc. (Applicant) filed on November 28, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3801 to be known as Clear Lake Dam Hydrogeneration Project located at the United States Department of the Interior, Water and Power Resources Services' (WPRS) Clear Lake Dam on Clear Creek in Yakima County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert H. Sherman, P.O. Box 572, 14030 Yelm Highway, S.E. Yelm, Washington 98597. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (a) a 9-foot diameter, 3,200-foot long penstock; (b) a powerhouse, containing two generating units, with a total rated capacity of 5,000 kW; (c) a 6.3-mile long, 13.8 kV transmission line connecting the powerhouse to the existing Bonneville Power Administration's Tieton Substation east of the powerhouse; and (d) appurtenant facilities. The Applicant estimates that the average annual energy output would be 17.29 million kWh.

Purpose of Project—Project energy would be sold to the Bonneville Power Administration.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the WPRS and other Federal, state, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $37,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 6, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 5, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's

Rules. Any comments, protest, or petition to intervene must be received on or before April 6, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3801. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-3712 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-112]

Wessely Energy Corp.; Application Pursuant to § 271.1105

January 28, 1981.

Take notice that on August 15, 1980, Wessely Energy Corporation, 2001 Bryan Tower, Suite 953, Dallas, Texas 75201 (Applicant) filed an Application pursuant to § 271.1105 of the Federal Energy Regulatory Commission's Regulations (Commission Regulations). Applicant requests a determination that the maximum lawful price under the National Gas Policy Act of 1978, 15 U.S.C. 3301, et seq. (NGPA) applicable to a certain first sale of natural gas shall not be considered to be exceeded as the result of the addition to such price of an amount expended for production-related costs pursuant to section 110 of the NGPA.

Applicant states that on August 1, 1980, it entered into a Pipeline Construction and Transportation Agreement with Wesmor Gathering Company (formerly Gulf Coast Pipeline Company) covering natural gas produced from the Feazell Well No. 1-A in the Bedford Wynne Field, Bowie County, Texas and transported to a point on the purchaser's (Natural Gas Pipeline Company of America's) 8-inch Maud lateral in Bowie County, Texas, a distance of approximately twenty-four and one-half miles. Applicant asserts that the purpose of its application is to be allowed to recover the actual costs incurred by seller for treating and transporting the sour gas produced from the Feazell Well No. 1-A, in addition to recovering the section 103 maximum lawful price for the sale of such gas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with 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 February 13, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-3713 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Cases Filed Week of Dec. 19 Through Dec. 26, 1980

During the week of December 19 through December 26, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 29, 1981.

List of Cases Received by the Office of Hearings and Appeals

[Week of Dec. 19 Through Dec. 26, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 19, 1980	Chevron USA/Advanced Sales, San Francisco, Calif.	BEJ-0173 and BED-0173.	Motion for Protective Order and Discovery. If granted: Discovery would be granted and Chevron USA would enter into a protective order with Advanced Sales regarding the release of proprietary information to Chevron USA in connection with Advanced Sales' Application for Exception (Case No. BXE-1348).
Dec. 19, 1980	Commonwealth Oil Refining Co., Inc., San Antonio, Tex.	BER-0082	Request for Modification/Rescission. If granted: The exception relief from the naphtha Entitlements Program granted in the May 6, 1980, Decision and Order issued to Commonwealth Oil Refining Co., Inc. (Case No. DMR-0078) by the Office of Hearings and Appeals would be extended.
Nov. 19, 1980	Navajo Refining Co./Amoco Oil Co., et al., Washington, D.C.	BEJ-0168 to BEJ-0172.	Motion for Protective Order. If granted: Navajo Refining Company would enter into a Protective Order with Amoco Oil Co., Chevron USA, Inc., Little America Refining Co., Mobil Oil Corp., and Witco Chemical Corp., regarding the exchange of proprietary information in connection with Navajo Refining Co.'s Application for Temporary Exception (Case No. BEL-0070).
Dec. 19, 1980	Office of Enforcement (McFarland), Washington, D.C.	BEF-0023	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR 205, in connection with the July 16, 1979, Consent Order issued to McFarland Energy, Inc.
Dec. 19, 1980	Pure Oil Co. (Asermelly), Pawtucket, R.I.	BEE-1570	Exception to the reporting requirements. If granted: Pure Oil Company would not be required to file "The No. 2 Distillate Price Monitoring Report" Form EIA-0A.
Dec. 19, 1980	Union Carbide Caribe, inc., New York, N.Y.	BER-0080	Request for modification/Rescission. If granted: The July 23, 1980, Decision and Order (Case No. DMR-0070) issued by the Office of Hearings and Appeals to Union Carbide Caribe, Inc., would be modified to increase the level of naphtha entitlements received by the firm.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Dec. 19 Through Dec. 26, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 22, 1980	Champlin Petroleum Company, Washington, D.C.	BEN-1095	Motion for Interim Order. If granted: Champlin Petroleum Company would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-1095).
Dec. 22, 1980	Louisiana Land & Exploration Co., New Orleans, La	BES-0122	Request for Stay. If granted: Louisiana Land & Exploration Company would receive a stay of the requirements of the December 1980 Entitlements Notice pending a final determination on its Appeal which the firm intends to file.
Dec 22, 1980	Marlex Petroleum, Inc., Los Angeles, Calif	BES-0123 and BET-0123.	Request for Stay and Temporary Stay. If granted: Marlex Petroleum, Inc., would receive a stay and temporary stay of the provisions of 10 CFR 212.83, which would require Marlex and ECO Petroleum, Inc., to treat their refining and marketing operations as a single firm for purposes of applying the refiner price formula.
Dec. 22, 1980	Plateau, Inc., Washington, D.C.	BER-0081 and BES-0081.	Request for Modification Rescission and Stay. If granted: The December 16, 1980, Decision and Order issued to Plateau, Inc. (Case No. BEX-0135) by the Office of Hearings and Appeals would be modified regarding the firm's initial purchase obligations. Plateau, Inc., would receive a stay pending a final determination on the Application for Modification/Rescission.
Dec. 22, 1980	Shoreline Texaco (Avash), Mill Valley, Calif	BRX-0145	Supplemental Order. If granted: The November 13, 1980, Remedial Order (Case No. BRO-1169) issued to Shoreline Texaco (Avash) would be rescinded.
Dec. 23, 1980	BP Oil Inc., Cleveland, Ohio	BER-0084	Request for Modification/Rescission. If granted: The October 31, 1980, Decision and Order (Case No. DEE-7227) issued to Hollowell Oil Company, Inc., would be modified regarding the firm's production of gasohol.
Dec. 23, 1980	Bon Wier Producing Company, Monroe, La	BEE-1571 to BEE-1573.	Price Exception. If granted: Bon Wier Producing Company would be permitted to sell at market prices the crude oil produced from the Inman "A" and "B" Leases.
Dec. 23, 1980	Commonwealth Oil Refining Company, Inc., San Antonio, Tex.	BEE-1574 and BEL-1574.	Allocation Exception. If granted: Commonwealth Oil Refining Company, Inc., would receive an exception and temporary exception from the provisions of 10 CFR Part 211 with respect to the Buy/Sell list for the period January 1, 1981, through September 30, 1981.
Dec. 23, 1980	Foundation for National Progress, San Francisco, Calif.	BFA-0561	Appeal of an Information Request Denial. If granted: The Foundation for National Progress with respect to its Freedom of Information Request (Case No. 10288011V), would be granted a fee waiver.
Dec. 23, 1980	Huntway Refining Company, Los Angeles, Calif	BES-0125 and BET-0125.	Request for Stay and Temporary Stay. If granted: Huntway Refining Company would receive a stay and a temporary stay of the provisions of 10 CFR 211.67, pending a final determination on its Application for Exception which the firm intends to file.
Dec. 23, 1980	Louisiana Land & Exploration Company, Washington, D.C.	BEA-0562	Appeal of Entitlements Notice. If granted: The December 16, 1980, Entitlements Notice would be modified with respect to Louisiana Land & Exploration Company for the period of October 1980.
Dec. 23, 1980	Office of Enforcement (Quintin Little), Washington, D.C.	BEF-0024	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR 205, in connection with March 7, 1980, Consent Order issued to Quintin Little Company.
Dec 23, 1980	Office of Enforcement (Union Texas), Washington, D.C.	BEF-0025	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR 205, in connection with March 6, 1980, Consent Order issued to Union Texas Petroleum Corporation.
Dec. 23, 1980	Office of Enforcement (Westland,) Washington, D.C	BEF-0026	Implementation of Special Refund Procedures. If granted: The Office of hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, in connection with a June 23, 1980, Consent Order issued to Westland Oil Development Corporation.
Dec 23, 1980	The 341 Tract Unit, Washington, D.C	BEN-0078	Request for Interim Order. If granted: The 341 Tract Unit would be permitted to implement on an interim basis the alternate form of relief set forth in the December 15, 1980, Decision and Order (Case No. BEN-0071). This relief would permit the Unit to recertify $60 million in additional net revenue to undertake a tertiary crude oil recovery project.
Dec. 23, 1980	True Oil Company, Casper, Wyo	BFA-0560	Appeal of an Information Request Denial. If granted: The December 12, 1980, Information Request Denial issued by the Crude Products Program Management Branch, Central Enforcement District, would be rescinded and True Oil Company would receive access to information regarding the December 4, 1980, Notice of Probable Violation issued to the firm.
Dec. 24, 1980	Isthmus Refining Corporation, Washington, D.C.	BEE-1577	Exception to the Entitlements Program. If granted: Isthmus Refining Corporation would receive an exception from the provisions of 10 CFR 211.67, regarding the firm's participation in the Entitlements Program.
Dec 24, 1980	Southland Oil Company/VGS Corporation, Washington, D.C.	BER-0085	Request for Modification/Rescission. If granted: The December 17, 1980, Decision and Order issued by the Office of Hearings and Appeals to Southland Oil Company/VGS Corporation (Case No. BEX-0141) would be modified regarding the firm's entitlements purchase obligations.
Dec 24, 1980	Warrior Asphalt Co. of Alabama, Inc., Washington, D.C.	BET-1477	Request for Temporary Stay. If granted: Warrior Asphalt Co. of Alabama, Inc., would receive a temporary stay of the provisions of 10 CFR 211.67, pending a final determination on its Application for Exception (Case No. BEE-1477).

Notices of Objection Received

[Week of Dec. 19 to Dec. 26, 1980]

Date	Name and location of applicant	Case No.
Dec. 24, 1980	Southland Oil Corporation, Washington, D.C	BXE-1476
Dec. 24, 1980	Plateau, Inc., Washington, D.C	BEE-1480
Dec. 24, 1980	Warrior Asphalt Company of Alabama, Washington, D.C	BXE-1477
Dec. 19, 1980	Ted's Marathon, Washington, D.C	BEE-1446
Dec. 19, 1980	Baker's Marathon, Washington, D.C	BEE-1448
Dec. 19, 1980	Arlington Marathon, Washington, D.C	BEE-1449
Dec. 19, 1980	Foreman's & Sons Marathon, Washington, D.C	BEE-1451
Dec. 19, 1980	Manley's, Marathon Washington, D.C	BEE-1452
Dec. 19, 1980	Trent's Marathon, Washington, D.C	BEE-1456
Dec. 19, 1980	A. J. Amer & Sons, Washington, D.C	BEE-1470
Dec. 19, 1980	Dan's Marathon, Washington, D.C	BEE-1473
Dec. 22, 1980	True Blood Oil Company, Washington, D.C	BEE-0529
Dec. 23, 1980	Purity Oil Company, Casper, Wyo	BEE-0894

[FR Doc. 81-3959 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of Dec. 26, 1980, through Jan. 2, 1981,

During the week of December 26, 1980, through Janauary 2, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the appliction within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 27, 1981.

List of Cases Received By the Office of Hearings and Appeals

[Week of Dec. 26, 1980, through Jan. 2, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 29, 1981	Butler, Binion, Rice, Cook & Knapp, Washington, D.C.	BFA-0564	Appeal of an Information Request Denial. If granted: The November 24, 1980, Information Request Denial issued by the Office of General Counsel for Regulation would be rescinded, and Butler, Binio, Rice, Cook & Knapp would receive access to certain DOE data.
Dec. 29, 1980	Crystal Oil Company, Washington, D.C	BEG-0042	Petition for Special Redress. If granted: Shell Oil Company would be required to supply Crystal Oil Company the volumes of crude oil withheld from Crystal for the period from March through November 1979.
Dec. 29, 1980	Getty Oil Company, Denver, Colo	BXE-1576	Price Exception. If granted: Getty Oil Company would be permitted to continue to sell at upper tier ceiling prices the crude oil produced from the Jack Canyon Well, located in Carbon County, Utah.
Dec. 29, 1980	Hartley Company, Cambridge, Ohio	BEX-0146	Supplemental Order in Hartley Company, 6 DOE ¶—— (1980). If granted: The September 16, 1980, Decision and Order (Case No. BEE-0417) issued by the Office of Hearings and Appeals to Hartley Co. would be rescinded.
Dec. 29, 1980	Les Francis Auto Rental, Leasing and Investment Corp., Bridgeton, Mo.	BCX-0148	Supplemental Order. If granted: The September 26, 1980, Decision and Order (Case No. BEE-0673) issued to Les Francis Auto Rental, Leasing and Investment Corp. by the Office of Hearings and Appeals would be modified in connection with the January 2, 1981, Stipulation Order issued by the Federal Energy Regulatory Commission.
Dec. 29, 1980	True Oil Purchasing Company, Casper, Wyo	BFA-0563	Appeal of an Information Request Denial. If granted: True Oil Purchasing Company would receive access to certain documents maintained by the Assistant Administrator for Enforcement of the Economic Regulatory Administration.
Dec. 30, 1980	Alliance Oil & Refining Company, Washington, D.C.	BRD-1333	Motion for Discovery. If granted: Discovery would be granted to Alliance Oil & Refining Company in connection with its Statement of Objections to the Proposed Remedial Order issued to the firm by the Office of Enforcement.
Dec. 30, 1980	Continental Gas Transmission Company, Denver, Colo.	BEE-157	Price Exception. If granted: Continental Gas Transmission Company would be permitted to sell at upper tier ceiling prices the crude oil produced from the No. 1-22 Harvey Well, located in Adams County, Colo.
Dec. 30, 1980	Energy Cooperative, Inc./Cities Service Company, Washington, D.C.	BEJ-0175	Motion for Protective Order. If granted: Energy Cooperative, Inc., would enter into a Protetive order with Cities Service Compay regarding the exchange of proprietary information.
Dec. 30, 1980	Energy Cooperative, Inc./Mobil Oil Corporation, Washington, D.C.	BEJ-074	Motion for Protective Order. If granted: Energy Cooperative, Inc., would enter into a protective Order with Mobil Oil Corporation regarding the exchange of proprietary information.
Dec. 31, 1980	Atlantic Richfield Company, Los Angeles, Calif	BRD-1322 and BRH-1322.	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with Atlantic Richfield Company's Statement of Objections to the Proposed Remedial Order (Case No. BRO-1322) issued to the firm by the Office of Enforcement.
Dec. 31, 1980	Energy Systems, Inc., Eden Prairie, Minn	BFA-0565	Appeal of an Information Request Denial. If granted: The July 1, 1980, Information Request Denial issued by the Office of Hearings and Appeals would be rescinded, and Energy Systems, Inc. would receive access to DOE documents entitled "1973-1974 Fuel Use" and the "Combustor capacities."
Dec. 31, 1980	Good Hope Refineries, Inc., Washington, D.C	BEL-0073	Request for Temporary Exception. If granted: Good Hope Refineries, Inc., would receive a temporary exception in the form of an emergency allocation of crude oil to the firm.
Dec. 31, 1980	Laketon Asphalt Refining Company, Laketon, Ind	BXE-1579	Exception to the Entitlements Program. If granted: Laketon Asphalt Refining Company would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations for the period beyond February 28, 1981.
Dec. 31, 1980	Petro-Therm Corp., Hobbs, N. Mex	BEN-1547	Interim Order. If granted: Petro-Therm Corp. would receive exception relief on an interim basis pending a final determination on its Application for exception (Case No. BEE-1547).
Jan. 2, 1981	Pray, Walker, Jackson, Williamson, & Marlar (Grimshaw), Tulsa, Okla.	BFA-0566	Appeal of an Information Request Denial. If granted: Pray, Walker, Jackson, Williamson, & Marlar (Grimshaw) would receive access to documents relating to the application of certain regulatory provisions to small refinors participating in the entitlements Program.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Dec. 26, 1978, to Jan. 2, 1981]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline:

Name	Case No.	Date	State
Kern County Refinery, Inc	BEE-1560	Dec. 29, 1980	California.

Notices of Objection Received

[Week of Dec 26, 1980, to Jan. 2, 1981]

Date	Name and location of applicant	Case No.
Dec. 29, 1980	Springer's Marathon, Washington, D.C	BEE-1460
Dec. 29, 1980	Denny's Auto Towing, Washington, D.C	BEE-1433

Notices of Objection Received
Continued

(Week of Dec 26, 1980, to Jan. 2, 1981)

Date	Name and location of applicant	Case No.
Dec. 29, 1980	Lakeside Marathon, Washington, D.C	BEE-1422
Dec. 29, 1980	Carriage Hill Marathon, Washington, D.C	BEE-1198
Dec. 29, 1980	Copano Refining Company, Washington, D.C	BEE-1325
Dec. 29, 1980	Phillips Puerto Rico Core, Inc., Washington, D.C	BEE-1235
Dec. 29, 1980	Mosinee Alcohol, Inc., Mosinee, Wis	BEE-0906
Dec. 29, 1980	Power Test Petroleum, Westbury, N.Y	DEE-7481
Dec. 30, 1980	Oklahoma Refining, Houston, Tex	DEE-5901
Dec. 30, 1980	Thriftway Company, Washington, D.C	BXE-1490
Dec. 29, 1980	Giant Industries, Inc., Washington, D.C	BEE-1348
Dec. 29, 1980	Young Refining Company, Washington, D.C	BXE-1479
Dec. 31, 1980	Caribou Four Corners, Inc., Denver, Colo	BEE-1478

[FR Doc. 81- 3960 Filed 2-2-81; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of Jan. 2 Through Jan. 9, 1981

During the week of January 2 through January 9, 1981, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.
January 29, 1981.

List of Cases Received by the Office of Hearings and Appeals

(Week of Jan. 2 through Jan. 9, 1981)

Date	Name and location of applicant	Case No.	Type of submission
Jan. 2, 1981	Little America Refining Co., Washington, D.C	BER-0087	Request for Modification. If granted: The December 18, 1980, Decision and Order (Case Nos. BED-0154, BER-0078, BER-0079) issued to Chevron U.S.A., Wyoming Refining Co. and Texaco, Inc., would be modified.
Jan. 5, 1981	Alan Ramo, Berkeley, Calif	BFA-0567	Appeal of an Information Request Denial. If granted: The December 3, 1980, Information Request Denial issued by the Office of Safeguards & Security would be rescinded, and Alan Ramo would receive access to certain DOE information.
Jan. 5, 1981	Arizona Fuels Corporation, Washington, D.C	BEA-0570	Appeal of the Entitlements Notice. If granted: The September 1980 Entitlements Notice would be modified with respect to Arizona Fuels Corporation's entitlements purchase obligations.
Jan. 5, 1981	Arizona Fuels Corporation, Washington, D.C	BES-0570	Request for Stay. If granted: Arizona Fuels Corporation would receive a stay of its requirements under the September 1980 Entitlements Notice pending a final determination on its Appeal (Case No. BEA-0570).
Jan. 5, 1981	Bracewell & Patterson, Washington, D.C	BFA-0569	Appeal of an Information Request Denial. If granted: The December 2, 1980, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Bracewell & Patterson would receive access to certain DOE information.
Jan. 5, 1981	Champlin Petroleum Company, Forth Worth, Tex	BRX-0147	Supplemental Order. If granted: The December 22, 1980, Decision and Order (Case No. BRX-0143) issued to Champlin Petroleum Company by the Office of Hearings and Appeals would be modified.
Jan. 5, 1981	Conoco, Inc., Houston, Tex	BXE-1581	Price Exception. If granted: Conoco, Inc., would be permitted to sell at market prices the crude oil produced from the Plum Bush Unit located in Washington County, Colo.
Jan. 5, 1981	Louis T. Rosenberg, San Antonio, Tex	BFA-0568	Appeal of an Information Request Denial. If granted: The December 10, 1980, fee waiver denial issued by the Division of FOI and Privacy Acts Activities would be rescinded, and Mr. Louis T. Rosenberg would receive a waiver of fees.
Jan. 5, 1981	Quaker State Oil Refining Corporation, Washington, D.C.	BED-0795	Motion for Discovery. If granted: Discovery would be granted to Quaker State Oil Refining Corporation in connection with the Statement of Objections submitted in response to the November 25, 1980, Proposed Decision and Order issued to the firm by the Office of Hearings and Appeals.
Jan. 5, 1981	Ryder Truck Rental, Inc., Doraville, Ga	BEA-0573	Appeal of an Assignment Order. If granted: A May 12, 1980, Assignment Order issued by the Region IV Office of the Economic Regulatory Administration to Ryder Truck Rental, Inc., would be modified.
Jan. 5, 1981	U-Haul Co. of Eastern Florida, Washington, D.C	BEA-0572	Appeal of an Assignment Order. If granted: A February 1, 1980, Assignment Order issued by the Region IV Office of the Economic Regulatory Administration to U-Haul Co. of Eastern Florida would be modified.
Jan. 6, 1981	Clark Oil & Refining Corporation, Milwaukee, Wis	BEE-1582	Price Exception. If granted: Clark Oil & Refining Corporation would receive an exception from the provisions of 10 CFR 212.83, regarding the marketing cost limitation (the F_i^T Factor) contained in the refiner price regulations.
Jan 6, 1981	National Treasury Employees Union (Silber), Washington, D.C.	BFA-0571	Appeal of an Informaion Request Denial. If granted: The December 23, 1980, Information Request Denial issued by the Inspector General would be rescinded, and Ms. Silber would receive DOE information regarding Clifton J. Luber and Donald R. Hunt.
Jan 6, 1981	Placid Oil Company, Washington, D.C	BEE, BEL-1584	Price Exception and Temporary Exception. If granted: Placid Oil company would receive an exception and a temporary exception which would permit the firm to exclude production during the months of September, October, and November 1980 in the calculation of its current cumulative deficiency for crude oil produced after December 1, 1980.
Jan 6, 1981	Pollution Control, Inc., Hobbs, N. Mex	BEE, BEL-1585	Price Exception. If granted: Pollution Control, Inc., would receive a temporary exception and an exception which would permit the firm to sell crude oil reclaimed from salt water disposal operations at stripper well prices.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Jan. 2 through Jan. 9, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 6, 1981	Stephen M. Shaw, La Jolla, Calif	BFA-0574 to 0576.	Appeals of Information Request Denials. If granted: Stephen M. Shaw would receive access to certain DOE materials.
Jan. 6, 1981	Welsh Oil, Inc., Merrillville, Ind	BXE-1583	Extension of the relief granted in *Welsh Oil, Inc.*, 6 DOE ¶ 81,036 (1980). If granted: Welsh Oil, Inc., would continue to receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Jan. 7, 1981	Chevron U.S.A., Inc., Washington, D.C	BED-1520	Motion for Discovery. If granted: Discovery would be granted to Chevron U.S.A., Inc., in connection with an Application for Exception (Case No. BXE-1520) filed by Dow Chemical, U.S.A.
Jan. 7, 1981	Commonwealth Oil & Refining Company, Inc./ Chevron U.S.A., Inc., Washington, D.C.	BEJ-0176	Motion for Protective Order. If granted: Chevron U.S.A., Inc., would enter into a Protective Order with Commonwealth Oil & Refining Company, Inc., regarding the exchange of proprietary information between Chevron and CORCO in connection with CORCO's Application for Exception (Case No. BEE-1574).
Jan. 7, 1981	Commonwealth Oil & Refining Company, Inc./Mobil Oil Corporation, Washington, D.C.	BEJ-0177	Motion for Protective Order. If granted: Mobil Oil Corporation would enter into a Protective Order with Commonwealth Oil & Refining Company, Inc., regarding the exchange of proprietary information betwen Mobil and CORCO in connection with CORCO's Application for Exception (Case No. BEE-1574).
Jan. 7, 1981	Exxon Company, U.S.A., Washington, D.C	BES-0127	Request for Stay. If granted: The December 31, 1980, Decision and Order issued by the Office of Hearings and Appeals to the 341 Tract Unit of Citronelle Field would be stayed pending a final determination on its Application for Exception (Case No. DEE-7746).
Jan. 7, 1981	Office of Enforcement, Washington, D.C	BEF-0027	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, in connection with the March 12, 1980, Consent Order issued to Texas Oil and Gas Corporation.
Jan. 7, 1981	Plateau, Inc., Washington, D.C	BEX-0149	Supplemental Order. If granted: The December 17, 1980, Proposed Decision and Order (Case No. BEE-1480) issued to Plateau, Inc., would be modified.
Jan. 7, 1981	Stephen M. Shaw, La Jolla, Calif	BFA-0577	Apeal of an Information Request Denial. If granted: The December 9, 1980, Information Request Denial issued by the Division of FOI and Privacy Acts Activities would be rescinded, and Stephen M. Shaw would receive access to certain DOE materials.
Jan. 8, 1981	Apex Oil Company, Washington, D.C	BFA-0579	Appeal of an Information Request Denial. If granted: The December 5, 1980, Information Request Denial issued by the Central Enforcement District of the Economic Regulatory Administration to Apex Oil Company would be rescinded, and the firm would receive access to documents regarding the DOE's audit of Apex Oil Company.
Jan. 6, 1981	Asamera Oil (U.S.), Inc., Washington, D.C	BEL-0074	Request for Temporary Exception. If granted: The relief granted in the October 16, 1980, and November 25, 1980, Decisions and Orders (Case Nos. BEL-1491 and BEL-0071) issued to Asamera Oil (U.S.), Inc., would be extended pending a final determination on the firm's Application for Exception (Case No. BEE-1491).
Jan. 8, 1981	Dave's fina, Oklahoma City, Okla	BRW-0072	Remedial Order Finalization. If granted: The July 18, 1980, Proposed Remedial Order issued to Dave Cleeland, d.b.a. Dave's Fina by the Southwest District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Jan. 8, 1981	Ergon Refining, Inc., Washington, D.C	BEA-0578	Appeal of Entitlements Notice. If granted: The December 1980 Entitlements Notice would be modified with respect to Ergon Refining, Inc.'s, entitlements purchase obligations.
Jan. 8, 1981	John's North Lake Service, Aurora, Ill	BRW-0071	Remedial Order Finalization. If granted: The June 20, 1980, Proposed Remedial Order issued to John Burton, d.b.a. John's North Lake Service by the Central District of the Economic Regulatory Administration would be issued as a final Remedial Order.
Jan. 9, 1981	Standard Oil Company (Indiana), Chicago, Ill	BES-0126	Request for Stay. If granted: Standard Oil Company (Indiana) would receive a stay of the December 31, 1980, Decision and Order issued to 341 Tract Unit of Citronelle Field by the Office of Hearings and Appeals pending a final determination on its Application for Exception (Case No. DEE-7746).
Jan. 9, 1981	Stephen M. Shaw, La Jolla, Calif	BFA-0582	Appeal of an Information Request Denial. If granted: Stephen M. Shaw would receive access to certain DOE documents and a waiver of fees.
Jan. 9, 1981	Stephen M. Shaw, La Jolla, Calif	BFA-0581	Appeal of an Information Request Denial. If granted: Stephen M. Shaw would receive access to certain DOE documents and a waiver of fees.
Jan. 9, 1981	Sydney Morning Herald Limited, Washington, D.C	BFA-0580	Appeal of an Information Request Denial. If granted: The January 5, 1980, Information Request Denial would be rescinded, and the Sydney Morning Herald Limited would receive access to information regarding Australian attempts to build nuclear weapons.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Jan. 1 to Jan. 9, 1981]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline:

Name	Case No.	Date	State
Corner Pantry Food Marts	BXE-1586	Jan. 6, 1981	Georgia.

Notices of Objection Received

[Week of Jan. 2 through Jan. 9, 1981]

Date	Name and location of applicant	Case No.
Jan. 6, 1981	Sage Creek Refining Co., Cowley, Wyo	BXE-1384
Jan. 6, 1981	Dr. Hooper Oil & Royalty Co., Houston, Tex	BXE-1514
Jan. 8, 1981	Cities Service Co., Tulsa, Okla	BEE-0367

[FR Doc. 81-3961 Filed 2-2-81; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of December 29, 1980 Through January 2, 1981

During the week of December 29, 1980 through January 2, 1981, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Heorings and Appeols.

January 29, 1981.

Benson-Montin-Greer Drilling Corporation, Farmington, New Mexico, BEE–1475, crude oil

Benson-Montin-Greer Drilling Corporation (B–M–G) filed an Application for Exception from the provisions of 10 CFR 212.75, 212.79, and 212.131. The exception request, if granted, would permit B–M–G to classify the crude oil that the firm produces from certain undeveloped properties as "newly discovered crude oil." On January 2, 1981, the Department of Energy issued a Proposed Decision and Order which dtermined that the exception request be granted.

J & W Refining, Inc., Houston, Texas, FEX–0172, DEX–0010, crude oil

The DOE conducted a review for the exception relief from entitlement purchase obligations granted to J & W during the period June 1976 through September 1977. The DOE concluded that the amount of relief accorded to the firm during that period was in excess by $606,967. On December 31, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that since Joseph Schero, the sole owner of the refinery, withdrew the amount of the excessive relief, and has relinquished the company which is now in a bankruptcy proceeding, Mr. Schero be held liable for the refund of the excessive relief.

LeCloir Operating Co., Inc., Abilene, Texas, BEE–1398, crude oil

LeClair Operating Co., Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the working interest owners from the Croton Creek Unit located in Dickens County, Texas, at upper tier ceiling price levels. On December 31, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted.

McGoldrick Oil Company, Shreveport, Louisiona, BEE–1337, crude oil

McGoldrick Oil Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the working interest owners from the TL SU "K" H. J. Collins Lease located in Catahoula Parish, Louisiana, at upper tier ceiling price levels. On December 31, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted.

D. W. Shelton, Denton, Texos, BEE–1327, crude oil

D. W. Shelton filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the working interest owners from the Dean Ward Number 1 Well located in Red River County, Texas, at market price levels. On December 31, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied.

The Superior Oil Compony, Houston, Texas, BEE–1152, crude oil

The Superior Oil Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the working interest owners from the South Croton Creek Unit located in Dickens County, Texas, at upper tier ceiling price levels. On December 31, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted.

[FR Doc. 81–3982 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of January 5 through January 9, 1981

During the week of January 5 through January 9, 1981, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that aply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of

1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 27, 1981.

Northville Industries, Incorporated, New York, New York, DEE–7009, motor gasoline

Northville Industries, Inc. filed an Application for Exception from the provisions of 10 CFR 211.9. The exception requests, if granted, would terminate Northville's present relationships with its base period suppliers of motor gasoline and assign to Northville new, lower-priced suppliers to furnish it with its entire gasoline allocation. On January 8, 1981, the DOE issued a Proposed Decision and Order which tentatively determined that the exception request be denied.

Vermont Morgan Corporation, Shoreham, Vermont, BEE–1277, motor gosoline

Vermont Morgan Corporation filed an Application for Exception from the provisions of 10 CFR Part 212. The exception request, if granted, would afford the firm an extension of time in which to make an election concerning its method of calculating its maximum lawful motor gasoline selling prices under the price rules applicable to resellers and reseller-retailers. On January 8, 1981, the Department of Energy issued a Proposed Decision and Order which tentatively determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Nome, Cose No., ond Locotion

Brazoria County, TX, DEE–7645, Brazosport, TX
Roadrunner Food Mart, Inc., DEE–7393, Many, LA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decision and Orders which determined that the exception requests be denied.

Company Name, Cose No., ond Location

Best Petroleum Co., Inc., DEE–7942, Lynn, MA
Catheys Valley Mobil Station, BEE–1499, Mered, CA
Herbert Young Gulf Service, DEE–6111, Gilmer, TX
Wright & Company, BEE–1324, Newport Beach, CA

[FR Doc. 81–3963 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

High Energy Physics Advisory Panel; Renewal

This notice is published in accordance with the provisions of Section 7 of the Office of Management Budget Circular A–63, as amended. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel has been renewed for a 2–year period ending on January 27, 1983.

The renewal of the Panel has been determined necessary and in the public interest. The Panel will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), The Department of Energy Organization Act (Pub. L. 95–91), OMB Circular No. A–63 (Revised), and other directives and instructions issued in implementation of those acts.

Further information regarding this Advisory Panel may be obtained from the Department of Energy Advisory Committee Management Office (202–252–5187).

Issued at Washington, D.C. on January 27, 1981.

Tina Hobson,

Advisory Committee Monogement Officer.

[FR Doc. 81–3965 Filed 2–2–81; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL COMMUNICATIONS COMMISSION

Common Carrier Action GTE Filing for Revised Depreciation Rates for Terminal Equipment

The following telephone companies, in the General Telephone and Electronics Corporation system, filed for proposed changes in depreciation rates for Accounts 231, Station Apparatus, and 234, Large Private Branch Exchange, on November 7, 1980:

General Telephone Company of Alaska
General Telephone Company of Florida
General Telephone Company of Indiana, Inc.
General Telephone Company of Michigan
General Telephone Company of the Northwest, Inc.
General Telephone Company of Ohio
General Telephone Company of the Southeast
General Telephone Company of the Southwest
Hawaiian Telephone Company
West Coast Telephone Company of California

In the filings the companies propose to (1) reduce service lives for most accounts below those underlying currently prescribed depreciation rates; and (2) to calculate depreciation rates on a remaining life basis effective the month following Commission action. GTE states that rapid technological developments, open and mature competition, changes in customer needs and demands, and changes in legislation and transitional regulation necessitate reduction in average service lives below those currently prescribed. Further, they contend that the continued use of the straight line whole-life depreciation procedure will result in a substantial shortfall in capital recovery for terminal equipment. As a result, they propose the use of the remaining-life depreciation procedure to enable them to depreciate the unrecovered investment in terminal equipment over its life. If accepted, the proposals would result in a significant increase in revenue requirements during the next few years. For 1981 alone, the companies' depreciation accruals would be increased by $65 million.

In FCC Docket No. 20188, adopted November 6, 1980, the Commission amended Part 31 of the Rules and Regulations to explicitly allow the use of the remaining-life method in determining depreciation rates. As a result the companies' proposals to calculate rates based upon the remaining-life method are consistent with Commission Rules. Therefore, we are requesting comments primarily regarding the first issue, the reduction of service lives for terminal equipment. It would be helpful if those commenting would address the following issues:

(1) The companies' future life estimates.

(2) The companies' future net salvage estimates.

(3) The studies and details in support of the companies' future estimates of both life and salvage.

(4) The effective dates of implementation of the proposed rates.

This filing will be coordinated with implementation efforts related to the Second Computer Inquiry, FCC Docket No. 20828.

On January 19, 1981, we requested additional retirement and salvage data as well as life indications for each of the companies. GTE's response to our request is due by February 6, 1981. Copies of the filings and supporting data and studies as well as GTE's response to our data request will be available for

inspection in the offices of the Depreciation Rates Branch in Suite 100 at 2555 M St. N.W. in Washington, D.C. Interested persons may file comments regarding these filings by March 15, 1981 (ref. no. 61730). Reply comments are due by April 15, 1981.

Questions regarding this matter should be brought to the attention of Mr. Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 632-6956.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-3718 Filed 2-2-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 2147]

Davis Export Consultants International, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Davis Export Consultants International, Inc., P.O. Box 91003, Houston, TX 77088, FMC No. 2147, was cancelled effective December 20, 1980.

On November 20, 1980, the Commission received a copy of a cancellation request addressed to the surety company indicating that Davis Export Consultants International, Inc. did not plan to renew its surety bond.

Davis Export Consultants International, Inc. has failed to furnish a valid replacement surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2147 be and is hereby revoked effective December 20, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 2147, issued to Davis Export Consultants International, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register served upon Davis Export Consultants International, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-3723 Filed 2-2-81; 8:45 am]

BILLING CODE 6730-01-M

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, 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 the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by February 13, 1981. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10376-1.

Filing Party: Mr. R. J. Finnan, Chief Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10376-1 extends the existing sailing and service agreement between China Ocean Shipping Company and Lykes Bros. Steamship Co., through March 1, 1982.

By order of the Federal Maritime Commission.

Dated: January 29, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-3938 Filed 2-2-81; 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, N.W., 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., 20572, by February 23, 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 indicated that this has been done.

Agreement No.: 8080-18.

Filing Party: Wade S. Hooker, Jr. Esquire, Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 8080-18 modifies the basic agreement of the Atlantic and Gulf-Indonesia Conference (1) to conform to the requirements of General Order 7, Revised; (2) deletes the words "Portuguese Timor and West New Guinea"; (3) adds Vice Chairman to the Officers that may be selected by the Conference; (4) increases the financial guarantee to $60,000; and (5) makes nonsubstantive changes in the wording of Article 12(g).

Agreement No.: 8240-16.

Filing Party: Wade S. Hooker, Jr. Esquire, Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 8240-16 modifies the basic agreement of the Atlantic and Gulf-Singapore, Malaya and Thailand Conference (1) to conform to the requirements of General Order 7, Revised; (2) by adding Vice Chairman to the Officers that may be selected by the Conference; (3) by increasing the financial guarantee to $60,000; and (4) by making nonsubstantive changes in the wording of Article 12(g).

Agreement No.: 8210-42.

Filing Party: Mr. Howard A. Levy, Ms. Patricia E. Byrne, Attorneys for Continental North Atlantic Westbound Freight Conference, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 8210–42 amends Article 14 of the basic agreement of the Continental North Atlantic Westbound Freight Conference by increasing the financial guarantee from $25,000 to $100,000.

Agreements Nos.: T–3945 and T–3945–A.

Filing Party: Mr. John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, Oakland, California 94604.

Summary: Agreement No. T–3945, between the Port of Oakland (Port) and Maersk Line Pacific, Ltd. (Maersk), provides for the nonexclusive preferential assignment to Maersk of 22 acres, including berth area, at the Outer Harbor Terminal Area in the Port of Oakland. As compensation, Maersk will pay the Port applicable terminal tariff charges subject to a minimum annual guarantee of $1,075,000. For revenue accrued over $1,366,000, Maersk will pay 50 percent of tariff charges. The term of the agreement is 5 years, with an additional 5-year renewal option.

Agreement No. T–3945–A, between the same parties, provides for the nonexclusive preferential assignment to Maersk of a container crane located on the same premises. The Port reserves the right to assign secondary use of the crane to itself or to third parties. Maersk agrees to pay the Port each month an amount equal to the crane rental and other crane charges, subject to a guaranteed annual crane usage compensation quota equivalent to 950 hours at prevailing crane rental rates.

Agreement No.: T–3946.

Filing Party: J. Robert Bray, Executive Director, Virginia Port Authority, 1600 Maritime Tower, Norfolk, Virginia 23510.

Summary: Agreement No. T–3946 between the Virginia Port Authority (VPA) and Oyster Point Development Corporation (OPDC), provides for the lease by VPA to OPDC of certain marine terminal property at Newport News Marine Terminal to be used for the construction and operation of a facility designed for the automated bagging, storage and shipping of grain. OPDC shall compensate VPA for the use of the premises at a rate of $5,400 per year. The term of the agreement is 5 years with a renewal option for an additional 5 years. The agreement provides that OPDC shall not divert or cause to be diverted any business provided under the agreement or as may be provided by other tenants at Newport News Marine Terminal. In addition, OPDC covenants and agrees to observe and obey all applicable rules and regulations of the VPA or the Newport News Marine Terminal governing the conduct and operation of the terminal operation in the Port of Hampton Roads.

Agreement No.: T–3947.

Filing Party: Mr. Richard L. Landes, City Attorney of Long Beach, Harbor Branch Office, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3947, between City of Long Beach (City) and Marine Metals Inc. (MMI), provides for a 3-year lease to MMI of 211,355 sq. ft. of paved area, including >116,403 sq. ft. of warehouse space, located at Warehouse 5, Long Beach, California. The premises will be used for the storage and distribution of MMI's merchandise, at a monthly rental rate of $17,500, payable to City. Both parties agree that the premises will not be used in connection with common carriers by water. In addition, the parties agree to conditions of maintenance and repair, arbitration, indemnification and other terms provided for in the agreement.

Dated: January 29, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81–3939 Filed 2–2–81; 8:45 am]

BILLING CODE 6730–01–M

Agreement Filed; Correction

Agreements Nos.: LM–65 and LM–66.

Filing Party: C. P. Lambos, Esquire, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004.

Summary: Agreements Nos. LM–65 and LM–66 appeared in the Federal Register on January 7, 1981 (46 FR 1776) and were listed incorrectly. The notice should have read:

The Federal Maritime Commission hereby gives notice that on September 30, 1980, the following agreements were filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and were deemed approved that date.

Agreement No.: LM–65.

Filing Party: C. P. Lambos, Esquire, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004.

Summary: Agreement No. LM–65 is the collectively-bargained Job Security Program Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts and the International Longshoremen's Association, AFL–CIO, covering the period October 1, 1980, through September 30, 1983.

Agreement No.: LM–66.

Filing Party: C. P. Lambos, Esquire, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, New York 10004.

Summary: Agreement No. LM–66 is the collectively-bargained Tonnage Assessment Agreement between the New York Shipping Association and the International Longshoremen's Association, AFL–CIO, covering the period October 1, 1980, through September 30, 1983.

Dated: January 29, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81–3940 Filed 2–2–81; 8:45 am]

BILLING CODE 6730–01–M

Murmansk Shipping Company/Polish Ocean Lines Pol-Arctic Joint Service Agreement Cancellation

Filing Party: Mr. Z. Teplicki, Polish Ocean Lines, c/o Gydnia American Line, Inc., One World Trade Center, Suite 3557, New York, New York 10048.

Agreement No. 10160.

Summary: On January 5, 1981, the Commission received notice of the termination of the participation of Polish Ocean Line and Murmansk Shipping Company, in Agreement No. 10160. The agreement will be cancelled effective January 5, 1981, the date the notice of cancellation was received by the Commission.

Dated: January 29, 1981.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81–3941 Filed 2–2–81; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Security Bancorporation; Formation of Bank Holding Company

First Security Bancorporation, Miles City, Montana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.64 percent or more of the voting shares of First Security Bank and Trust of Miles City, Miles City, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 26, 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, January 27, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81–3700 Filed 2–2–81; 8:45 am]

BILLING CODE 6210–01–M

Southwest Bankcorp; Formation of Bank Holding Company

Southwest Bankcorp, Vista, California, has applied for the Board's

approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Southwest Bank, Vista, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Southwest Bankcorp, Vista, California, has also applied, pursuant to section 4(c)(8) of the Bank Holding Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Southwest Thrift and Loan Association, San Diego, California.

Applicant states that the proposed subsidiary would engage in industrial loan company activities and offer credit-related life, credit-related disability and credit-related property insurance. These activities would be performed from offices of Applicant's subsidiary in San Diego, California, serving the counties of San Diego, Orange and Riverside in the State of California. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 26, 1981.

Board of Governors of the Federal Reserve System, January 27, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-3701 Filed 2-2-81; 8:45 am]

BILLING CODE 6210-01-M

Welch Bancshares, Inc.; Formation of Bank Holding Company

Welch Bancshares, Inc., Welch, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Welch State Bank, Welch, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 26, 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, January 27, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-3702 Filed 2-2-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activity indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than February 27, 1981.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California (financing and credit-related life, accident and health insurance activities; New York): to engage through its subsidiaries, Security Pacific Finance Corp. and SPF Credit Services, Inc., in making or acquiring for its own account or 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-related life, accident and health insurance. These activities would be conducted from offices of Security Pacific Finance Corp. and SPF Credit Services, Inc. located in Rockville Center, White Plains, Great Neck and Rochester, New York, serving the State of New York.

2. Security Pacific Corporation, Los Angeles, California (industrial loan, financing and credit-related insurance activities; California): to engage through its subsidiary, Security Pacific Finance Money Center Inc., in financing and industrial loan corporation activities; making, acquiring and servicing loans and other extensions of credit; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health and credit-related property insurance, all as authorized by California law. These activities would be conducted from an office in Encino, California, serving the State of California.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, January 28, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-3940 Filed 2-2-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on New System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of new system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to establish a new system of records that will be maintained by GSA. The system of records, Review/Consultant File GSA/NARS-11, will be established to provide the National Historical Publications and Records Commission (NHPRC) staff with the information necessary to select the names of people to serve as grant proposal reviewers or as consultants for grantees who need help in setting up their records program. A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on January 9, 1981.

DATES: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before March 5, 1981. The new system of records shall become effective as proposed without further notice on March 5, 1981, unless comments are received that would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (HRAR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 566-0673.

Background

The National Historical Publication and Records Commission (NHPRC) has proposed the establishment of a new system of records, Reviewer/Consultant File, that will contain personal information on archival experts. The information will be used by NHPRC to select archival experts to serve as reviewers or consultants to grantees who need help in setting up records program.

The proposed new system of records is as follows:

GSA/NARS-11

SYSTEM NAME:

Reviewer/Consultant File.

SYSTEM LOCATION:

The system is located at the National Historical Publications and Records Commission, 711 14th Street, NW., Washington, DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Archival reviewers and consultants who apply to serve as consultants or reviewers for the National Historical Publications and Records Commission's records grant program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information about the reviewers and consultants including name, address, telephone number, education, professional vita, publications, archival skills, archival and historical records experience, and program evaluation experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. Chapter 25.

PURPOSE(S):

The biographical material is used by NHPRC staff principally in the records grant program for selecting reviewers to evaluate proposals received by NHPRC and for proposing possible archival consultants for those individuals who have received grants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from this system may be disclosed to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of individual.

SAFEGUARDS:

During normal hours of operations, records are maintained in areas accessible only to authorized personnel of NARS. After hours, building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are destroyed when no longer needed for administrative purposes.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system is the Executive Director, National Historical Publications and Records Commission, 711 14th Street NW., Washington, DC. Mailing address: National Historical Publications and Records Commission (NP), National Archives and Records Service, Washington, DC 20408.

NOTIFICATION PROCEDURE:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager. In person requests may be made during normal business hours at 711 14th St. NW., Washington, DC. For written requests the individual should provide full name, address, telephone number, and approximate date of communication with the Commission. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents of the records and for appealing initial determinations are promulgated in 41 CFR 105-64, published in the Federal Register.

RECORD SOURCE CATEGORIES:

Archival experts who have volunteered to serve as reviewers or consultants.

Dated: January 23, 1981.

Ben Schiffman,

Director of Administrative Services.

[FR Doc. 81-3734 Filed 2-2-81; 8:45 am]

BILLING CODE 6820-34-M

Public Buildings Service

[Draft Environmental Impact Statement (DEIS)]

Proposed Annex Construction and Repair and Alteration of U.S. Post Office and Courthouse (PO & CT), Charleston, South Carolina; Revised Notice of Public Meeting and Availability of DEIS

A Draft Environmental Impact Statement (DEIS) concerning the proposed annex construction and repair and alteration of the U.S. Post Office and Courthouse in Charleston, South Carolina, has been prepared by the General Services Administration in accordance with Section 102(2)(C) of the National Environmental Policy Act. The DEIS was released on January 21, 1981, to Federal, State, and local agencies, interested individuals and community groups. Participation by all interested public agencies, community groups and individuals in review and comment on the DEIS is invited. Any written comments on the DEIS should be sent to the address below and may be submitted until March 12, 1981. Mr. W. H. Capes (4PG), Public Buildings Service, General Services Administration, 75 Spring Street, SW, Atlanta, GA 30303.

The public meeting has been rescheduled to provide the community an opportunity to submit comments. The details of the meeting are described below.

Public Meeting

Date: February 20, 1981.
Time: 1:30 p.m.
Place: Room 333, L. Mendel Rivers Federal Building, 334 Meeting Street, Charleston, South Carolina.
Purpose: To receive comments concerning the Draft Environmental Impact for the proposed project.
Instructions: Interested parties desiring to present oral comments at the meeting will be recognized by the chair and extended an opportunity to do so. Oral comments must be limited to no more than five minutes but in addition written comments will be accepted.

Additional copies of the DEIS and the transcript of the Scoping Meetings are available for review and public inspection at the following locations:

1. General Services Administration, Public Buildings Service, Operational Planning Staff, Room 418, Richard B. Russell Federal Building and Courthouse, 75 Spring Street SW., Atlanta, GA 30303.
2. General Services Administration, Public Buildings Service, Buildings Managers Office, L. Mendel Rivers Federal Building, 334 Meeting Street, Charleston, SC 29403.

Dated: January 21, 1981.
Wesley L. Johnson, Jr.,
Regional Administrator.
[FR Doc. 81-3691 Filed 2-2-81; 8:45 am]
BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80F-0498]

Polysar Limited; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: Polysar Limited has filed a petition proposing that the food additive regulations be amended to provide for the safe use of styrene-butadiene copolymers containing N-methylol-acrylamide as a polymer component and α-sulfo-*w*-(dodecyloxy) poly(oxyethylene), ammonium salt as components in the manufacture of paper and paperboard intended for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)), notice is given that a petition (FAP 9B3443) has been filed by Polysar Limited, Sarnia, Ontario Canada N7T 7M2, proposing that the food additive regulations be amended to provide for the safe use of styrene-butadiene copolymers containing N-methylolacrylamide as a polymer component and α-sulfo-*w*-(dodecyloxy) poly(oxyethylene), ammonium salt as components in the manufacture of paper and paperboard intended for food-contact use.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and its environmental assessment may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 26, 1981.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 81-3589 Filed 2-2-81; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Moab District Grazing Advisory Board; Meeting

February 26, 1981.

AGENCY: Bureau of land Management—Utah.

ACTION: Notice of meeting, Moab District Grazing Advisory Board.

Notice is hereby given, in accordance with Pub. L. 92-463, that a meeting of the Moab District Grazing Advisory Board will be held on March 20, 1981 beginning at 10 a.m. The meeting will be held in the Conference Room of the Bureau of Land Management District Office at 125 West 2nd South, Moab, Utah. The meeting is open to the public.

The agenda for the meeting will include:

1. Report on the status of the Grand Gulch management Plan, such as its possible effects on range management in the area.
2. Status of the Price River Grazing Environmental Impact Statement (EIS).
3. Status of the Grand Grazing EIS.
4. Status of the San Juan Grazing EIS Preparation Plan.
5. Status of the Grazing Stewardship Program in the District.
6. Discussion on the use of Advisory Board Funds for range improvements.
7. Discussion on the Directors Draft Policy on Range Improvement.
8. Status of the Grazing Regulations.

Interested persons may make oral or written statements to the Board between 2 and 3 p.m. Anyone wishing to make statements must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532 by March 18, 1981.

Kenneth V. Rhea,
District Manager.
[FR Doc. 81-3696 Filed 2-2-81; 8:45 am]
BILLING CODE 4310-84-M

[W-73389]

Wyoming; Application

January 26, 1981.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah, filed an application for

a right-of-way to construct a 6⅝ inch O.D. buried pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 13 N., R. 113 W.,
Secs. 5 and 6.
T 14 N., R. 113 W.,
Secs. 19, 20, 21, 22, 30 and 31.

The proposed pipeline will transport natural gas from the Henry's Fork Unit No. 1 well located in the NE¼SW¼ of Section 5, T. 13 N., R. 113 W., to a point of connection with an existing pipeline located in the SE¼NE¼ of Section 22, T. 14 N., R. 113 W., all within Uinta County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-3697 Filed 2-2-81; 8:45 am]
BILLING CODE 4310-84-M

[C-31164]

Colorado; Designation of Little Book Cliffs Wild Horse Range; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of area—amendment.

EFFECTIVE DATE:
This amendment becomes effective February 3, 1981.

SUMMARY: This action amends the legal description of the Little Book Cliffs Wild Horse Range by deleting 200 acres and adding 45 acres, to conform to the boundary of the Range on the ground.

FOR FURTHER INFORMATION CONTACT:
Sam McReynolds, Grand Junction District Office 303-243-6552.

SUPPLEMENTARY INFORMATION:

1. Pursuant to Section 3 of the Pub. L. 92-195 of December 15, 1971, Designation of the Little Book Cliffs Wild Horse Range, appearing as Document 80-34478 in the **Federal Register** of November 5, 1980 at pages 73542, 73543, is hereby amended to delete the following described lands which lie outside the eastern boundary of the Range:

Sixth Principal Meridian

T. 10 S., R. 98 W.,
Sec. 21, W½SW¼;
Sec. 28, W½NW¼ and NW¼SW¼.
Containing 200 acres.

The Designation is further amended to add the following land, inadvertently omitted from the original Designation:

Sixth Principal Meridian

T. 10 S., R. 98 W.,
Sec. 17, that portion lying below the north rim of Main Canyon.
Containing approximately 45 acres.

Dated: January 23, 1981.

Charles W. Luscher,

Acting State Director.

[FR Doc. 81-3973 Filed 2-2-81; 8:45 am]
BILLING CODE 4310-84-M

[ES 26171, Survey Group 79]

Michigan; Filing of Plat of Survey

1. On October 20, 1980, the plat representing the survey of two islands in Buhl Lake, formerly known as Pencil Lake, T. 30 N., R. 4 W., Michigan Meridian, Michigan, which were omitted from previous surveys, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m., on March 20, 1981.

Michigan Meridian, Michigan

T. 30 N., R. 4 W.,
Tract: 37, (0.91 acres);
Tract: 38, (1.02 acres).
The areas described aggregate 1.93 acres.

2. The islands described above are separate and distinct yet similar in character in in all respects to that of the adjacent surveyed lands. Tract 37 rises approximately 12 feet above the ordinary high water mark of Buhl Lake and has a soil composition of sandy loam. Timber consists of white pine, birch, maple, and hemlock. Tract 38 rises approximately 13 feet above the ordinary high water mark of Buhl Lake and has a soil composition of sandy loam. Timber species include white pine, Norway pine, birch, hemlock, and maple.

Tracts 37 and 38 were found to be over 50 percent upland in character within the purview of the Swamplands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

All inquiries relating to these lands should be sent to the Director (921), Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before March 20, 1981.

Pieter VanZanden,

Acting Eastern States Director.

[FR Doc. 81-3889 Filed 2-2-81; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Delbert Gue, PRT 2-7415, Phoenix, Arizona 85207

The applicant requests a permit to purchase in interstate commerce captive-bred masked bobwhite quail (*Colinus virginianus ridgwayi*) from U.S. sources for enhancement of propagation.

Applicant: Dr. Royal D. Suttkus, PRT 2-7480, Tulane University, Belle Chasse, Louisiana 70037

The applicant requests a permit to collect (scarifice) the following species and numbers of fishes from Arizona, Utah, or Colorado for enhancement of survival: humpback chub (*Gila cypha*)—24, bonytail chub (*G. elegans*)—8, woundfin (*Plagopterus argentissimus*)—100, and Colorado River squawfish (*Ptychocheilus lucius*)—6.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before March 5, 1981, by submitting written data, views, or arguments to the Director at the above address.

Dated: January 27, 1981.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 3564 Filed 2-2-81; 8:45 am]
BILLING CODE 4310-55-M

Water and Power Resources Service

Central Valley Project (CVP), California; Water Service Rate Policy; Availability of a Proposed Ratesetting Policy for Public Review and Comment and Public Hearings

The Department of the Interior, through the Water and Power Resources Service, has developed a water service rate policy for the CVP. The proposed policy was prepared pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), Pub. L. 84–643 (Act of July 2, 1956, 70 Stat. 483), and Pub. L. 88–44 (Act of June 21, 1963, 77 Stat. 68).

The CVP was originally authorized as an Army Corps of Engineers project by the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1028, 1038). Congressional reauthorization of the project under Reclamation law was provided in Section 2 of the Rivers and Harbors Act of August 26, 1937 (50 Stat. 844), and by the Rivers and Harbors Act of October 17, 1940 (54 Stat. 1198). Congress further reauthorized the project by the Act of October 14, 1949 (63 Stat. 852) and the Act of September 26, 1950 (64 Stat. 1036). Additional units were authorized by the Congress as integral parts of the project by the Acts of August 12, 1955 (69 Stat. 719); June 3, 1960 (74 Stat. 156); October 23, 1962 (76 Stat. 1191 and 1192); September 2, 1965 (79 Stat. 615); August 19, 1967 (81 Stat. 167); August 27, 1967 (81 Stat. 173); October 23, 1970 (84 Stat. 1097); and September 28, 1976 (90 Stat. 1328).

The initial irrigation water service contracts for the CVP were written for a term of 40 years. Water rates were established for each service area and remained constant during the contract term. The initial CVP water rate structure for irrigation was a graduated scale ranging from a low of $2 per acre-foot in the Sacramento Valley near the source of supply, and increasing to $3.50 per acre-foot for all service in the San Joaquin Valley south of the Sacramento-San Joaquin River Delta. The San Luis Unit in the San Joaquin Valley was authorized in 1960. The unit's feasibility report contained an irrigation water rate of $7.50 per acre-foot and this rate was used in water service contracts for the unit. Municipal and industrial (M&I) water service contracts also were written with nonadjustable water rates for terms of 40 years. Some M&I contracts provide for rate changes to ensure meeting operation, maintenance, and replacement costs. Earlier CVP M&I rates ranged from $9 per acre-foot for water from reservoirs and rivers, to $85 per acre-foot from special facilities.

Since the late 1960's, it has become evident that fixed-rate contracts do not ensure return of an appropriate share of the project costs to the Treasury. Through discussions and negotiations, a ratesetting policy has evolved that will ensure adequate returns to the Treasury and provide equitable charges among water users for services received. This policy is formalized and is available for review by interested parties. The policy statement reviews some water rate history and discusses the need for a standard ratesetting policy. The calculations illustrating water rates are included for review. Those calcuations reflect applications of the principles of the policy to the rate calculations for the project.

Two public hearing dates have been scheduled to receive comments on the draft policy statement from interested individuals and organizations. The locations, dates, and times for the hearings are:

Towne House, Chablis Room, Fresno, California, February 24, 1981 and 1 p.m.
Holiday Inn North, Maui Room, Sacramento, California, February 26, at 3 p.m. and 7 p.m.

Each hearing will continue until all persons desiring to comment have been heard.

Requests to speak may be made at the hearings. Those individuals or organizations which desire to speak at a specified time should send a written request for such to the address listed below. Requests for scheduling oral presentations will be accepted through February 20, 1981.

The time permitted for oral presentations at the hearings should be limited to 10 minutes per speaker. Speakers will not be permitted to trade or consolidate their scheduled time to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations may be submitted to the Regional Director at the address listed below. Any such written statements or other comments on the ratesetting policy will be accepted through March 16, 1981.

Copies of the draft policy statement may be obtained without charge by writing to the Regional Director, Water and Power Resources Service, Water Rate Policy, (MP–440), 2800 Cottage Way, Sacramento, CA 98525. Questions by telephone should be directed to Mr. Merv deHaas at (916) 484–4878.

Dated: January 27, 1981.

Clifford I. Barrett,
Assistant Commissioner of Water and Power Resources.

[FR Doc. 81–3650 Filed 2–2–81; 8:45 am]
BILLING CODE 4310–09–M

Industrial Water Service Contract Negotiations; Yellowtail Unit, Montana; Intent To Negotiate an Industrial Water Service Contract

The Department of the Interior, through the Water and Power Resources Service, intends to begin negotiations with the Montana Power Company (MPC) to provide of potential industrial water service from Yellowtail Reservoir (Big Horn Lake) for use at the company's Colstrip Units 3 and 4. The MPC has requested that a contract be negotiated to provide up to 6,000 acre-feet of water per year to be released from Big Horn Lake as required to supplement divertable flows in the Yellowstone River by MPC. Basically, the proposed contract will be drafted pursuant to the Reclamation Project Act of August 4, 1939 (53 Stat. 1189), and the Flood Control Act of 1944 (58 Stat. 887).

Colstrip Units 3 and 4, each of 750 megawatt capacity, are coal-fired, steam electric powerplants presently under construction at Colstrip, Montana. Diversion of water for the existing facilities (Colstrip Units 1 and 2), as well as the two new generating units, takes place from the Yellowstone River upstream from Forsyth, Montana. The Montana Board of Natural Resources and Conservaton has required that a contract for water service from Yellowtail Reservoir be executed in lieu of providing additional onsite water storage impoundment for operation of Units 3 and 4 during potential low-flow periods in the Yellowstone River. The release of such water would be made to insure adequate streamflows n the Yellowstone River so that ample cooling water is available for the operation of all four Colstrip units when combined with the present surge pond facilities at Colstrip.

All scheduled meetings and/or negotiating sessions, where terms and conditions of the contract are to be discussed, will be open for public observation. Advance notice of meetings will be furnished to those parties having submitted a written request for a meeting schedule at least 1 week prior to any meeting. Requests should be addressed to the Regional Director, Water and Power Resources Service, Attention: Code UM–440, P.O. Box 2553, Billings, Montana 59103. All written correspondence concerning the

proposed contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

A proposed draft will be made available for public review following completion of contract negotiations. Thereafter, a public hearing may be held, if necessary, and a 30-day period will be allowed for receipt of written comments from the public. In the event that little or no public interest is evidenced in the negotiations as gauged by the response to this notice and local announcements, the availability of the proposed form of contract for public review and comment will not be publicized through the Federal Register or other media.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contact Mr. William E. Crosby, Chief, Economics and Repayment Branch, Division of Water and Land, at the address stated above, or telephone (406) 657–6413.

Dated: January 27, 1981.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 81–3651 Filed 2–2–81; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539. 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 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 20, 1981 (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. **OP2–156**

Decided: January 12, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

MC 2202 (Sub-650), filed December 18, 1980. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Over *regular routes*, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between Griffin and Concord, GA, over U.S. Hwy 19 to Junction GA Hwy 18, then over GA Hwy 18 to Concord, and return over the same route, serving all intermediate points.

MC 36832 (Sub-26), filed December 19, 1980. Applicant: AMERICAN TRANSIT LINES, INC., 221 North LaSalle St., Chicago, IL 60601. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those which because of size or weight requires the use of special equipment), between points in IL, IN, IA, MI, MO, PA, NY, OH, Newport and Louisville, KY, and Omaha, NE.

MC 87523 (Sub-116), filed December 18, 1980. Applicant: STEWART TRUCKING COMPANY, INC., P.O. Box 5155, Manchester, NH 03108. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036. Transporting *beverages*, in containers, from (a) Boston, Springfield, Easton, Needham, and New Bedford, MA, (b) Elmsford, NY, and (c) South Portland, ME, to points in ME, NH, VT, and NY.

MC 98752 (Sub-7F), filed December 23, 1980. Applicant: ZEPHYR LINE, INC., 84 Western Avenue, West Springfield, MA 01089. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk), between points in Hampden County, MA, on the one hand, and, on the other, points in NY and VT.

MC 107012 (Sub-634), filed December 19, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30, West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *such commodities* as are dealt in or used by commercial, institutional, and industrial establishments, between points in Los Angeles County, CA and Atlanta, GA, on the one hand, and, on the other, points in the U.S.

MC 107012 (Sub-635), filed December 19, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30, West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting (1) *carpet*, from Libertyville, IL, to points in AL, FL, GA, IN, MI, NY, ND, OH, and PA, and (2) *synthetic fibers*, from points in GA and SC, to Libertyville, IL.

MC 107012 (Sub-637), filed December 22, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30, West, P.O. Box 988, Fort

Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting (1) *furniture* from Raleigh, NC, to points in AL, FL, GA, KY, ME, MS, and TN; and (2) *mattresses*, from Richmond, VA, to points in AL, FL, GA, KY, LA, ME, MS, NC, SC, TN, and WV.

MC 107012 (Sub-638F), filed December 22, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *general commodities*, between points in the U.S., under a continuing contract(s) with North American Philips Corporation, of New York, NY, and its Subsidiaries.

Note.—To the extent this permit authorizes the 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 107162 (Sub-77F), filed December 22, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. Transporting *iron and steel articles*, from Chicago, IL, Canton and Washington Court House, OH, and Green Bay and Milwaukee, WI, to points in the Upper Peninsula of MI, and points in Florence, Forest, Iron, Marinette, and Vilas Counties, WI.

MC 109633 (Sub-50F), filed December 22, 1980. Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, IL 61361. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *paper, paper products, and woodpulp*, between points in Cook County, IL, on the one hand, and, on the other, points in CT, DE, GA, KY, MD, MA, NJ, NY, NC, OH, PA, RI, SC, TN, MI, VA, WV, and DC.

MC 112713 (Sub-319F), filed December 22, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: William F. Martin, Jr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Olney, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 112822 (Sub-484F), filed December 17, 1980. Applicant: BRAY LINES, INCORPORATED, P.O. Box 1191, 1401 N. Little St., Cushing, OK 74023. Representative: Dudley G. Sherill (same address as applicant). Transporting *tires and tubes*, from Texarkana, AR to points in OK and Kansas City, KS.

MC 113362 (Sub-411F), filed December 17, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. Transporting (1) *petroleum products, coal by-products and plastic compounds*, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of petroleum products, coal by-products and plastic compounds, (except in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to facilities of Gulf Oil Company, USA, and its affiliates.

MC 117142 (Sub-6), filed December 19, 1980. Applicant: AMERICAN TRAILER HAUL, INC., 609B South Main St., Woodstock, GA 30188. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *trailers*, designed to be drawn by passenger automobiles, and (2) *portable buildings*, between points in AL, FL, GA, LA, MS, NC, SC, and TN.

MC 119552 (Sub-10), filed December 18, 1980. Applicant: J.T.L., INC., 49 Rosedale St., Providence, RI 02903. Representative: Robert L. Cope, 1730 M St. NW., Suite 501, Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Denton Sales Company, Inc., of Dallas, TX.

MC 119552 (Sub-12F), filed December 18, 1980. Applicant: J.T.L. INC., 49 Rosedale St., Providence, RI 02903. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., under continuing contract(s) with Lever Brothers Company, of Pagedale, MO.

MC 125403 (Sub-13F), filed December 23, 1980. Applicant: S.T.L. TRANSPORT, INC., P.O. Box 369, Newark, NY 14513. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting *malt beverages in (in containers) and materials, equipment and supplies used in the manufacture, and distribution* of malt beverages (except in bulk) between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, and DC, restricted to traffic originating at or destined to the facilities of Wayne Beer Distributors.

MC 126822 (Sub-110), filed December 16, 1980. Applicant: WESTPORT TRUCKING COMPANY, a corporation, 15580 South 169 Hwy. Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). Transporting (1) *adhesives*, and (2) *materials and supplies* used in the manufacture and distribution of adhesives, between Baltimore, MD, on the one hand, and, on the other, points in the U.S.

MC 126822 (Sub-111), filed December 22, 1980. Applicant: WESTPORT TRUCKING COMPANY, a corporation, 15580 South 169 Hwy. Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S., restricted to traffic originating at or destined to the facilities of the Jos. Schlitz Brewing Company.

MC 130453 (Sub-2F), filed December 24, 1980. Applicant: CRAWFORD TOURS, INC., 5418 William Flynn Highway, Route 8, Gibsonia, PA 15044. Representative: Jerry Purcell, 16 Chatham Square, Pittsburgh, PA 15219. As a *broker*, at Gibsonia, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in PA, and extending to points in the US (including AK and HI).

MC 139382 (Sub-1F), filed December 23, 1980. Applicant: DWIGHT PARKER TRUCKING CO., INC., P.O. Box 149, Hugo, OK, 74743. Representative: Richard Hubert, P.O. Box 10236, Lubbock, TX 79408. Transporting *road building materials*, between points in OK and TX.

MC 140243 (Sub-14), filed December 22, 1980. Applicant: APPLE HOUSE, INC., 3726 Birney Ave., Scranton, PA 18505. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Transporting (1) *food and related products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in Northumberland County, PA, on the one hand, and, on the other, points in AL, FL, GA, NC, and SC.

MC 141773 (Sub-16), filed December 18, 1980. Applicant: THERMO TRANSPORT, INC., P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household

goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Corth Plastics, Inc., of Santa Fe Springs, CA.

MC 144732 (Sub-3), filed December 22, 1980. Applicant: S &S TRUCKING, INC., Alzada Star Route, Belle Fourche, SD 57717. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Transporting *machinery* (except electrical), between points in MT, ND, SD, and WY.

MC 144842 (Sub-11), filed December 17, 1980. Applicant: RIGGINS TRUCKING, INC., 1004 West Maple St., Springdale, AR 72764. Representative: Nancy Pyeatt, 815 15th St. NW., Washington, DC 20005. Transporting (1) *alcoholic liquours* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of alcoholic liquors, between points in IL, on the one hand, and, on the other, points in the U.S.

MC 145913 (Sub-2), filed December 22, 1980. Applicant: BART LANG TRUCKING, INC., Route 2, Box 221A1, Lexington, NE 68850. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from points in Dawson County, NE, to points in the U.S. (except AK, HI, and NE); and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) in the reverse direction.

MC 146643 (Sub-65), filed December 19, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Marc J. Blumenthal, 39 S. La Salle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Hubbard Milling company, of Mankato, MN.

MC 147113 (Sub-5), filed December 22, 1980. Applicant: TEPPCO TRANSPORT, INC., 1111 East 39th St., Chattanoga, TN 37409. Representative: Jon G. Soderlund (same address as applicant). Transporting *molded polystyrene foam egg cartons*, (a) between Lawrenceville, GA, on the one hand, and, on the other, points in SC, NC, VA, WV, FL, AL, MS, LA, AR, and TN, and (b) between Decatur, IN, on the one hand, and, on the other, points in VA, WV, OH, KY, and TN.

MC 148302 (Sub-1), filed December 17, 1980. Applicant: R. L. BOWERY, d.b.a. TRI-CITY TRUCK & EQUIPMENT, INC., P.O. Box 5327, Kingsport, TN 37663. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004. Transporting (1) *plastic articles* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles, between points in Harris County, TX, and Hudson County, NJ, on the one hand, and, on the other, points in the U.S.

MC 148362 (Sub-5), filed December 22, 1980. Applicant: HAR-BET, INC., 7209 Tara Blvd., Jonesboro, GA 30236. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., NE, Atlanta, GA 30326. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with United Freight, Inc., of Morrow, GA.

MC 150583 (Sub-1), filed December 19, 1980. Applicant: ROSENBERGER ENTERPRISES, INC., 200 East Clinton, Indianola, IA 50125.. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting *machinery, parts for machines, bicycle chains, pumps, and chemicals*, in containers, from Los Angeles, CA, to points in the U.S.

MC 150833 (Sub-3F), filed December 24, 1980. Applicant: PDR TRUCKING, INC., P.O. Box 609, Gastonia, NC 28052. Representative: Eric Meirhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. Transporting *plastic products, and materials and supplies* used in the manufacture and distribution of plastic products, between points in the U.S., restricted to traffic originating at or destined to the facilities of Robintech, Inc.

MC 151272 (Sub-1), filed December 31, 1980. Applicant: FOOD HAULERS CO., INC., 600 York St., Elizabeth, NJ 07207. Representative: Barbara R. Klein, Esquire, 1101 Connecticut Avenue NW., Washington, DC 20036. Transporting (1) *such commodities* as are dealt in by grocery stores, drug stores, and food business houses, and (2) *equipment, materials and supplies* used in the conduct of such businesses, between points in CT, DE, MD, MA, NJ, NY, PA, RI, and VA.

MC 151703 (Sub-5), filed December 22, 1980. Applicant: NORSUB, INC., R.D. #1, Box 317, Evans City, PA 16033. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *water and air treating chemicals and equipment, and activated carbon*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., restricted to traffic originating at or destined to the facilities of Calgon Corporation.

MC 152782 (Sub-1F), filed December 19, 1980. Applicant: EDWARDS FAMILY ENTERPRISES, 1821 E. Diana Ave., Anaheim, CA 92805. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Transporting meats, meat products, meat by-products and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the U.S., under continuing contract(s) with Sioux-Preme Packing Company of Sioux Center, IA.

MC 153133 (Sub-1F), filed January 2, 1981. Applicant: TRANS AMERICAN TRANSPORTATION SYSTEM, INC., Highway 59 South, P.O. Box 422, Stafford, TX 77477. Representative: Patricia L. Altman, 2523 Avenue H, Rosenburg, TX 77471. Transporting (1) *kiln dust, refined bayrite, and sand blasting sand*, in bags, between points in TX, OK, NM, AZ, and AR, and (2) *kiln dust, refined bayrite, and sand blasting sand*, in bags, between points in TX, on the one hand, and, on the other, points in OK, NM, AZ, and AR.

MC 153233F, filed December 18, 1980. Applicant: AXE & ARTHUR MOTOR EXPRESS, INC., 651 Genant Drive, Syracuse, NY 13204. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY 13501. Transporting *general commodities*, between points in Monroe, Onondaga, and Wayne Counties, NY, on the one hand, and, on the other, points in Cayuga, Monroe, Onondaga, Ontario, Seneca, and Wayne Counties, NY. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in points of time to a period expiring 5 years from its date of issuance.

MC 153373F, filed December 29, 1980. Applicant: EARTH TOURS, INC., P.O. Box 31, Grove City, 16127. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, D.C. 20005. As a *broker* at Grove City, PA and Mentor, OH, in

arranging for the transportation of *passengers and their baggage*, between all points in the U.S.

MC 153412F, filed December 30, 1980. Applicant: QUALITY COACH LINES, INC., 402 North Division, P.O. Box 646, Carson City, NV 89701. Representative: Mike Soumbeniotis (same address as applicant). Transporting *passengers and their baggage*, in the same vehicle as passengers, in charter operations, beginning and ending at points in CA and NV, and extending to points in the U.S. (including AK, but excluding HI), restricted to transportation arranged by licensed passenger brokers.

Volume No. OP4-218

Decided: January 27, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Member Jones not participating.)

MC 37896 (Sub-37F), filed January 2, 1981. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1408, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St. NW., Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with The Essex Group, Inc., of Fort Wayne, IN.

MC 105566 (Sub-240F), filed January 13, 1981. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *textile mill products*, between points in Pickens, Pike, Fayette, Calhoun, and Marion Counties, Al, Warren, Taylor, Franklin, and Russell Counties, KY, Iberia and St. Martin Parishes, LA, Panola and Pontotoc Counties, MS, Stanly, Franklin, Alexander, and Cleveland Counties, NC, Woodward County, OK, and Lexington County, SC, on the one hand, and on the other, points in the U.S.

MC 113106 (Sub-101F), filed January 9, 1981. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 E. Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, container ends and closures, between points in the U.S.

MC 117686 (Sub-294F), filed October 14, 1980. Applicant: HIRSCHBACH MOTOR LINES, INC., 920 W. 21st St., P.O. Box 155, S. Sioux City, NE 68776. Representative: George L. Hirschbach (same address as applicant). Transporting *food and related products*, from points in FL, to points in KS, NE, ND, SD, MN, WI, and IA.

MC 119656 (Sub-81), filed January 12, 1981. Applicant: NORTH EXPRESS, INC., 219 East Main St., P.O. Box 247, Winamac, IN 46996. Representative: John Deremigio (same address as applicant). Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packinghauses*, between points in Cass County, IN, on the one hand, and, on the other, points in IL, KY, MI, MO, and WI.

MC 139906 (Sub-136F), filed December 29, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *wearing apparel*, from those points in the U.S. in and east of WI, IL, KY, TN, and MS, to the facilities of K-Mart Apparel Corp., at or near North Bergen, NJ, Alsip, IL, Forest Park, GA, and Carson, CA.

MC 149546 (Sub-5), filed January 13, 1981. Applicant: D & T TRUCKING CO., INC., 498 First St. NW., New Brighton, MN 55112. Representative: Samuel Rubestein, P.O. Box 5, Minneapolis, MN 55440. Transporting *food and related products*, (1) between points in IA, MN, NE, and WI, and (2) between points in (1) above, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 150376 (Sub-3), filed January 16, 1981. Applicant: C & M CARTAGE COMPANY, INC., P.O. Box 94531, Oklahoma City, OK 73143. Representative: Greg E. Summy, P.O. Box 1540 Emond, OK 73034. Transporting *textile mill products*, between the facilities of Union Underwear Company, Inc., on the one hand, and, on the other points in the U.S.

MC 150786 (Sub-2), filed January 14, 1981. Applicant: BOBBY BARNS & CHARLES FITZPATRICK, d.b.a. B & F TRUCKING CO., a partnership, 3240 Sangamon St., Steger, IL 60415. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60415. Transporting (1) *food and related products*, between points in the U.S. under continuing contract(s) with D'Amico Foods Co., of Steger, IL, and (2) *chemicals and related products*, between points in the U.S. and NC, under continuing contract(s) with William C. Lyons Associated, Ltd., of Matteson, IL.

MC 152566 (Sub-1), filed January 13, 1981. Applicant: ONEDIN LINE, INC., 6021 Bapst St., Toledo, OH 43615. Representative: Richard A. Eberlin (same address as applicant). Transporting *food and related products*, between points in the U.S., under continuing contract(s) with J. A. Hoffer, Incorporated of Toledo, OH.

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Decided: January 28, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Member Jones not participating.)

MC 41136 (Sub-30), filed January 14, 1981. Applicant: FLEET CARRIER CORPORATION, 525 South Boulevard East, Pontiac, MI 48053. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. Transporting *transpartatian equipment* from points in Lehigh County, PA, and all ports in the Atlantic Ocean and the Gulf of Mexico, to all points in the United States (except AK and HI).

MC 136876 (Sub-12F), filed January 8, 1981. Applicant: THE PAULIE BRAZIER COMPANY, a corporation, P.O. Box 652, Buffalo Rd., Lawrenceburg, TN 38464. Representative: B. E. Bryant, 107 North Military Ave., Lawrenceburg, TN 38464. Transporting *chemicals and related products*, (1) between points in Dent County, MO, on the one hand, and, on the other, points in TN and KY, (2) between points in Colbert County, AL, on the one hand, and, on the other, points in AR, MS, and those in GA on and north Interstate Hwy 20, and (3) between points in Nashville, TN, on the one hand, and, on the other, points in KY and MO.

MC 140276 (Sub-3), filed January 16, 1981. Applicant: LARRY SCHEFUS TRUCKING, INC., R.R. 1, Box 202, Redwood Falls, MN 56283. Representative: John H. Schnobrich, 315 South Washington, Redwood Falls, MN 56283. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Central Bi-Products, Inc., of Redwood Falls, MN.

MC 144386 (Sub-6), filed January 12, 1981. Applicant: WILLIAM B. BLANEY, JOHN D. BLANEY, JR., and JAMES M. BLANEY, d.b.a. BLANEY FARMS, R.D. No. 1, Box 216B Perryopolis, PA 15473. Representative: William A. Gary, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commadities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Diamond Crystal Salt Company, Inc., of St. Clair, MI.

MC 148106 (Sub-9), filed January 12, 1981. Applicant: McWHORTER-GRAY ENTERPRISES, INC., 1010 Hwy 15 North, Ripley, MS 38663. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting *hazardous waste materials*, between

points in the U.S., under continuing contract(s) with Recycling Industries Inc., of Braintree, MA.

MC 149546 (Sub-4), filed January 14, 1981. Applicant: D&T TRUCKING CO., INC., 498 1st St. NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *food and related products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 150396 (Sub-1), filed January 9, 1981. Applicant: THE TORRI CORPORATION, 116 Lundquist Dr., P.O. Box, Braintree, MA 02184. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting (1) *metal articles, electronic parts and machine parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the foregoing commodities, between points in the U.S., under continuing contract(s) with Millard Metal Service Center, Inc., Millard Mid-Atlantic Metal Service Center, Inc., Millard Controlled Metals, Inc., Millard Lakes Metal Service Center, Inc., M.B.C., Inc., M.B.C. Scrap Company, Inc., Valley Manufactured Products, Inc., CATV Corporation of American, Electrofit Corporation, and Metals Surplus Corporation, all of Braintree, MA.

MC 150526 (Sub-2), filed January 13, 1981. Applicant: YARMOUTH LUMBER, INC., North St., Box 46, Yarmouth, ME 04096. Representative: William H. Phipps (same address as applicant). Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Port Clyde Foods, Inc., of Falmouth, ME.

MC 153576F, filed December 23, 1980. Applicant: THE BROCK CORPORATION, 26000 Sprague Rd., Olmsted Falls, OH 44138. Representative: Kenneth M. Lapine, 1401 East Ohio Bldg., Cleveland, OH 44114. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Westview Concrete Corporation and Balsam Corporation, both of Olmsted Fall, OH.

MC 153636, filed January 16, 1981. Applicant: WILLIAM F. FOX, d.b.a NITE-HAWK TRANSPORTATION, 12780 S.W. Prince Albert St., Tigard, OR 97223. Representative: Lawrence V. Smart, Jr., 419 NW., 23d Ave., Portland, OR 97210. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with Timjoist, Inc., of Tualatin, OR.

Vol. No. OP4-220

Decided: January 28, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

MC 37896 (Sub-38), filed January 16, 1981. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Henry B. Stockinger (same address as application). Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Seven Up Asheville Company, Inc., of Asheville, NC.

MC 9936 (Sub-4), filed January 14, 1981. Applicant: HAVERHILL & LAWRENCE TRANSPORTATION COMPANY, INC., 17 Locke St., Haverhill, MA 01830. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *general commodities* (except classes A and B explosives), between points in MA. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written request, of its Certificate of Registration No. MC-9936 (Sub-2).

MC 113106 (Sub-102), filed January 13, 1981. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmont Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005. Transporting (1) *ores and minerals*, and (2) *clay, concrete, glass or stone products*, between Baltimore, MD, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 115546 (Sub-1), filed January 12, 1981. Applicant: FRANK P. PITTS, INC., Route 104, Williamson, NY 14589. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. Transporting (1) *metal products*, (2) *rubber and plastic products*, and (3) *containers*, between points in the U.S., under continuing contract(s) with Caldwell Manufacturing Company, of Rochester, NY.

MC 117786 (Sub-120), filed December 22, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: Baldo J. Lutich, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *furniture and fixtures, disassembled kitchen cabinets and hardware*, from points in Sandoval County, MN to points in Maricopa County, AZ.

MC 117786 (Sub-121), filed January 14, 1981. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Berstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *general commodities* (except classes A and B explosives), between the facilities, used by The Stanley Works, on the one hand, and, on the other, points in the U.S.

MC 121496 (Sub-50), filed January 9, 1981. Applicant: CANGO CORPORATION, 2727 North Loop West, Houston, TX 77008. Representative: E. Stephen Heisley, 666 Eleventh Street NW., No. 805, Washington, DC 20001 Transporting *commodities*, in bulk, between points in LA, on the one hand, and, on the other, points in the U.S.

MC 142186 (Sub-8), filed January 19, 1981. Applicant: WHEELS WEST, INC., 11631 Waddle Creek Rd. SW., Olympia, WA 98502. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Triangle Auto Spring Co., of DuBois, PA.

MC 146646 (Sub-142), filed January 12, 1981. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355-A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between the facilities of Avery International, on the one hand, and, on the other, points in the U.S.

MC 147636 (Sub-13), filed January 16, 1981. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *metal products*, between points in Cook and Peoria Counties, IL, and Montgomery County, IN, on the one hand, and, on the other, points in the U.S.

MC 148286 (Sub-1), filed January 12, 1981. Applicant: RALPH OPPERMAN, 1017 Valley View Dr., Fortuna, CA 95540. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Chicago Metallic Corporation, of Vernon, CA

MC 150026, filed January 19, 1981. Applicant: McKINLEY TRUCKING, INC., 1162 Hillview Dr., Salt Lake City, UT 84117. Representative: Patricia S. Woolley (same address as applicant). Transporting *metal products*, between points in Box Elder County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, WA, and WY.

MC 150376 (Sub-4), filed January 16, 1981. Applicant: C & M CARTAGE COMPANY, INC., P.O. Box 94531, Oklahoma City, OK 73143.

Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. Transporting *textile mill products*, between points in Caddo County, OK, on the one hand, and, on the other, points in CO, OK, and TX.

MC 152486 (Sub-1), filed January 12, 1981. Applicant: EUGENE DIXON, d.b.a. EUGENE DIXON TRUCKING, Route 1, Crandall, GA 30711. Representative: Eugene Dixon (same address as applicant). Transporting *ore and minerals*, between points in Hamilton County, TN, and points in Whitfield and Murray Counties, GA.

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Decided: January 16, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 55889 (Sub-64F), filed December 19, 1980. Applicant: AAA COOPER TRANSPORTATION, a corporation, P.O. Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Savannah, GA, and Elizabeth City, NC, over U.S. Hwy 17; (2) between Savannah, GA, and Roanoke Rapids, NC, from Savannah over Interstate Hwy 16 to junction Interstate Hwy 95, then over Highway 95 to Roanoke Rapids, and return over the same route; (3) between Charleston, SC, and Asheville, NC, over Interstate Hwy 26; (4) between Wilmington and Charlotte, NC, over U.S. Hwy 74; (5) between Morehead City and Greensboro, NC, over U.S. Hwy 70, (6) between Elizabeth City and Winston-Salem, NC, over U.S. Hwy 158, (7) between Roxboro, NC, and Myrtle Beach, SC, over U.S. Hwy 501, (8) between Memphis, TN, and Manteo, NC, over U.S. Hwy 64, (9) between Augusta, GA, and Henderson, NC, over U.S. Hwy 1, (10) between Bristol, TN, and Winston-Salem, NC, over U.S. Hwy 421, (11) between Hardeeville, SC, and Johnston City, TN, over U.S. Hwy 321, (12) between Mt. Airy, NC, and Charleston, SC, over U.S. Hwy 52, (13) between Birmingham, AL, and Westmoreland, TN, from Birmingham over U.S. Hwy 31 to Nashville, TN, then over U.S. Hwy 31E to Westmoreland, and return over the same route, (14) between Decatur, AL, and Westmoreland, TN, from Decatur over U.S. Hwy Alt. 72 to Huntsville, AL, then over U.S. Hwy 231 to Westmoreland, and return over the same route, (15) between Knoxville and Bristol, TN, over U.S. Hwy 11E (also over U.S. Hwy 11W), (16) between Knoxville and Memphis, TN, over U.S. Hwy 70, (17) between Nashville and Memphis, TN, from Nashville over Interstate Hwy 24 to junction U.S. Hwy 79, then over U.S. Hwy 79 to Memphis, and return over the same route, (18) between Memphis and Union City, TN, over U.S. Hwy 51, (19) between Chattanooga and Nashville, TN over U.S. Hwy 41, (20) between Clarksville, TN, and Athens, AL, from Clarksville over TN Hwy 13 to AL Hwy 17, then over AL Hwy 17 to Florence, AL, then over U.S. Hwy 72 to Athens, and return over the same route, (21) between Byrdstown and Fayetteville, TN, from Byrdstown over TN Hwy 42 to Sparta, TN, then over U.S. Hwy 70S to McMinnville, TN, then over TN Hwy 55 to Lynchburg, TN, then over TN Hwy 50 to Fayetteville, and return over the same route, (22) between Newport and Nashville, TN, from Newport over U.S. Hwy 25E to junction TN Hwy 63, then over TN Hwy 63 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction TN Hwy 52, then over TN Hwy 52 to Springfield, TN, then over U.S. Hwy 41 to Nashville, and return over the same route, and (23) between Knoxville and Jellico, TN, over U.S. Hwy 25W, serving all intermediate points in NC, SC, and TN on routes (1) through (23) above, and serving all othe points in NC, SC, and TN as off-route points.

Note.—Applicant intends to tack the routes sought with each other, and with applicant's existing authority.

MC 100439 (Sub-10F), filed December 22, 1980. Applicant: DAVID W. HASSLER, INC., R.D. #8, York, PA 17403. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. NW., Washington, DC 20005. Transporting *material and supplies* used in the treatment of waste, in bulk, between Baltimore, MD, on the one hand, and, on the other, those points in PA on and east of U.S. Hwy 15.

MC 105269 (Sub-93F), filed December 18, 1980. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St., Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting *general commodities* (except in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Hammermill Paper Company, and its affiliates and subsidiaries. Condition: Any certificate issued in this proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 107478 (Sub-81F), filed December 30, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, 1791 Westchester Drive, Highpoint, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *paper, paper products, machinery, and materials, equipment,* and *supplies* used in the manufacture, distribution, and operation of machinery, between points in Monroe County, NY, on the one hand, and, on the other, those points in the U.S. in and east of TX, OK, KS, NE, SD, and ND.

MC 110689 (Sub-13F), filed December 29, 1980. Applicant: AIRWAY TRUCKING CO., a corporation, 4239 Newton Rd., Stockton, CA 95204. Representative: Bobbie F. Albanese, 13215 E. Penn St., Suite 310, Whittier, CA 90602. Transporting (1) *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in AZ, CA, NM, NV, and UT, (2)(a) *refractory products* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of refractory products, between points in Monterey County, CA, on the one hand, and, on the other, those points in the U.S. in and west of MI, IN, IL, MO, AR, and LA, and (3)(a) *glass and glass products* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of glass and glass products, between points in San Joaquin County, CA, on the one hand, and, on the other, points in CO, NM, TX, and UT. Condition: Prior or coincidental cancellation of certificate MC 110689 (Sub-1F, Sub-9F, and Sub-11F), and MC–F–13590 and MC–F–13591.

MC 112989 (Sub-137F), filed December 31, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 S., Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *metal articles*, and *materials, equipment, and supplies* used in the manufacture and distribution of metal articles, between points in the U.S.

MC 117068 (Sub-137F), filed December 24, 1980. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Hwy. 63, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *food and related products*, between the facilities used by the George Hormel Co., in MN and IA, on the one hand, and, on the other, points in CO.

MC 118959 (Sub-256F), filed December 22, 1980. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers or convertors of paper and paper products, between points in Forrest County, MS, on the one hand, and, on the other, points in Rapides County, LA.

MC 119968 (Sub-22F), filed December 30, 1980. Applicant: A. J. WEIGAND, INC., P.O. Box 130, Dover, OH 44622. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Transporting *commodities in bulk*, between points in the U.S., restricted to traffic originating at or destined to the facilities of American Cyanamid Company.

MC 121568 (Sub-74F), filed December 22, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Transporting (1) *such commodities* as are dealt in or used by discount stores, and (2) *materials* used in the manufacture of the commodities in (1) (except commodities in bulk), between points in TN and LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121598 (Sub-13F), filed December 22, 1980. Applicant: SHELBYVILLE EXPRESS, INC., Old Railroad Ave., Shelbyville, TN 37160. Representative: James G. Caldwell, P.O. Box 100906, Nashville, TN 37210. Transporting (1) *such commodities* as are dealt in by a manufacturer of crayons, erasers, and plastic and rubber articles, between points in Bedford and Marshall Counties, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135078 (Sub-71F), filed December 22, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 Charter Bank Center, 920 Main Street, P.O. Box 19251, Kansas City, MO 64141. Transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*. 61 M.C.C. 209 and 766, between points in the U.S.

MC 1144578 (Sub-7F), filed December 30, 1980. Applicant: LIME, INC., 3969 Wyoming Ave., Dearborn, MI 48126. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *clay, concrete, glass or stone products* between points in MI, IN, IL, NY, UT, PA, MO, and WV, on the one hand, and, on the other, points in the U.S.

MC 144739 (Sub-7F), filed December 22, 1980. Applicant: BOB'S TRUCK SERVICE, INC., P.O. Box 528, Middletown, OH 45042. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting (1) *building and construction materials, iron and steel articles, machinery*, and *aluminum articles*, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between points in OH, on the one hand, and, on the other, points in TN, WI, KY, IL, IN, MI, OH, WV, AL, GA, NC, SC, VA, and MS.

Volume No. OP5–25

Decided: January 16, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 145129 (Sub-5F), filed December 30, 1980. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 2909 South Hickory St., Chattanooga, TN 37407. Representative: M. C. Ellis, 1001 Market St., Chattanooga, TN 37402. Transporting *those commodities* which because of their size or weight require the use of special equipment or special handling, and *iron and steel articles*, between points in Bradley and Hamilton Counties, TN on the one hand, and, on the other, points in AL, GA, KY, MS, NC, SC, and VA.

MC 145648 (Sub-9F), filed December 24, 1980. Applicant: DUDLEY TRUCKING, INC., 1819 Olympic Terrace, Tacoma, WA 98401. Representative: Rebecca L. Bogard, 2000 IBM Bldg., Seattle, WA 98101. Transporting (1) *grain bins, truck bed bodies, steel culverts, and steel buildings*, and (2) *materials* used in the construction of the commodities in (1) above between points in Spokane County, WA, on the one had, and, on the other, points in MT, ID, UT, ND, SD, NV, WY, MN, and CA.

MC 145708 (Sub-2F), filed December 23, 1980. Applicant: WILLIAM A. LONG, INC., Bealeton, VA 22712. Representative: Gary E. Thompson, 4304 East-West Hwy., Washington, DC 20014. Transporting (1) *reinforcing mesh, wire, and nails, and* (2) *materials, equipment and supplies* used in the manufacture and sale of the commodities in (1), between points in VA, 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. Condition: Prior or coincidental cancellation, at applicant's written request, of its Permit in MC 134219 (Sub-8), issued October 2, 1977.

MC 146728 (Sub-2F), filed December 23, 1980. Applicant: GOLDEN BROS., INC., 234 McClure Street, Kewanee, IL 61443. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Transporting *iron and steel articles*, between points in the U.S., under continuing contract(s) with Pacesetter Steel Service, Inc., of Marietta, GA.

MC 147528 (Sub-5F), filed December 30, 1980. Applicant: T.A.S. TRUCKING, INC., 2652 Springwood Drive, Meridian, ID 83642. Representative: Dan L. Poole, P.O. Box 1559, Boise, ID 83701. Transporting *masonry articles and supplies*, between points in the U.S., under continuing contract(s) with The Masonry Center, Inc., of Boise, ID.

MC 148188 (Sub-18F), filed November 10, 1980. Applicant: RETAIL LEASING CORPORATION, d.b.a. RETAIL TRANSPORTATION COMPANY, 11301 Rockville Pike, Kensington, MD 20795. Representative: Edward F. Schiff, 1333 New Hampshire Ave., Washington, DC 20036. Transporting *such commodities* as are dealt in by manufacturers of glass, glass products, plastics, chinaware, and metal products between points in the U.S. under continuing contract(s) with Anchor Hocking Corp., of Lancaster, OH.

MC 150578 (Sub-6F), filed December 31, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2844 Motley Drive, Mesquite, TX 75150. Representative; S. Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. Transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), between points in TX, on the one hand, and, on the other, points in the U.S.

MC 151238 (Sub-1F), filed December 22, 1980. Applicant: ZERO TANK & TRUCK LINES, INC., P.O. Box 551, Channelview, TX 77530. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting (1)(a) *irrigation systems*, and (b) *parts for irrigation systems*, (2)(a) *solar energy systems, fuel heating appliances*, and (b) *part and accessories* used in the installation, operation, and maintenance of the commodities in (2)(a), (3)(a) *pipe and poles*, and (b) *materials, equipment, and supplies* used in the installation and maintenance of the commodities in (3)(a), (4) *iron and steel articles*, (5) *accessories, parts, equipment, materials, and supplies* used in the manufacture or assembly of the

commodities in (1) through (4) above, and (5) *marine equipment*, between Valley, NE, on the one hand, and, on the other, Houston and Galveston, TX, and New Orleans, LA.

MC 151248 (Sub-1F), filed December 24, 1980. Applicant: JIMMIE D. OTT, d.b.a. JIM OTT & SON TRUCKING, 3400 Wood Lane, Bakersfield, CA 93309. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Transporting *such commodities* as are used in the establishment, maintenance, or dismantling of oil, gas, steam and water wells, pipelines, refineries, and cracking and casinghead plants, between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, MO, NV, NM, OK, OR, TX, UT, WA, and WY.

MC 151768 (Sub-7F), filed November 18, 1980. Initially published in the Federal Register on December 10, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting (1) *such commodities* as are dealt in by hardware business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except liquid commodities in bulk), between those points in the U.S. in and south of NY, PA, OH, IN, IL, MO, KS, CO, UT, NV, and CA. This application is republished to show the correct territorial description.

MC 153439F, filed December 31, 1980. Applicant: RONALD D. AUMANN, 822 Grand Ave., Neillsville, WI 54456. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *pet food ingredients*, between Greenwood, WI, on the one hand and on the other, points in the U.S.

MC 153539F, filed December 29, 1980. Applicant: JET LINE SERVICE, INC., 460 Riverside Industrial Parkway, Portland, ME 04103. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. Transporting *general commodities* (except classes A and B explosives), between those points in MA east of the Connecticut River, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, and NY.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3740 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29486 (Sub-No. 1)]

Delaware and Hudson Railway Co.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the Delaware and Hudson Railway Company (DH) from the requiremnt that it receive approval under 49 U.S.C. § 11343 prior to performing operations over a line of railroad of Consolidated Rail Corporation (Conrail) extending from Binghamton, NY to Scranton, PA.

DATES: The exemption will be effective on February 1, 1981, and will remain effective until the Commission issues its final decision on DH's application for permanent authority to purchase and permanently operate the line, in Finance Docket No. 29486.

ADDRESSES: Send petitions for reconsideration to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th Street and Constitution Ave. NW., Washington, DC 20423; and

(2) Petitioner's representatives: William P. Quinn, George H. Kleinberger, Attorneys for Delaware and Hudson Railway Company, Fell, Spalding, Goff & Rubin, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

Pleadings should refer to Finance Docket No. 29486 (Sub. No. 1).

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275-7245; or Ernest B. Abbott, (202) 275-3002.

SUPPLEMENTAL INFORMATION:

Background

DH applied to the Commission on December 4, 1980, in Finance Docket No. 29486 for authority to purchase and operate a line of railroad of Conrail extending a distance of 60.34 miles from Binghamton, NY to Scranton, PA.

DH presently owns and operates a single-track line between Nineveh, NY and Scranton, PA, which lies roughly parallel to the Binghamton-Scranton line. The DH line is part of the DH mainline connecting Canada and New England with the Eastern and Southern United States. In 1979, DH moved approximately 159,700 cars over this line. The DH line includes a segment of approximately 40 miles between Lanesboro and Scranton, PA, which it claims is considerably more costly to operate than the parallel Binghamton-Scranton line. The DH line is 20 miles longer than the Binghamton-Scranton line, suffers from adverse grades and curvature, and has a summit 810 feet higher than the parallel line. DH estimates that each trip over the Binghamton-Scranton line will save 355 gallons of fuel when compared to its own line.

Moreover, the DH line needs substantial rehabilitation. Track speed on the DH line is presently limited to 10 miles per hour at nine locations. Even so, DH experienced 28 track related derailments on its line during the 18-month period ending June 30, 1980.

In contrast, the Scranton-Binghamton line consists entirely of 131 and 132 pound rail in good condition. With the exception of one tunnel, the Binghamton-Scranton line is all double-tracked. DH estimates that with relatively modest rehabilitation the line will support operating speeds of 40 miles per hour. Such operations would result in a 40 percent time savings relative to the DH line.

By Service Order No. 1486, effective September 27, 1980, our Railroad Service Board authorized DH to operate temporarily over the Binghamton-Scranton line. That service order expires January 31, 1981, and, because of changes made by the section 226 of the Staggers Rail Act of 1980, Pub. L. No. 96-448, it appears that the service order cannot be renewed.

On January 9, 1981, DH filed a petition for exemption under 49 U.S.C. 10505 from the provisions of 49 U.S.C. 11343 to permit continuation of its operations over the Binghamton-Scranton line until we can consider and decide its request for permanent authority.

Discussion and Conclusions

Pursuant to 49 U.S.C. 10505, as amended by section 312 of the Staggers Act, we are authorized to exempt a transaction from regulation when we find that (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and (2) either the transaction is of limited scope or regulation is not necessary to protect shippers from an abuse of market power.

Compliance with 49 U.S.C. 11343 for the period here involved is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a. Continued operation of the Binghamton-Scranton Line by DH will enable DH to operate at a lower cost, and insure that our regulation itself does not interfere with efficient operations. Operation over the Binghamton-Scranton line will be safer than operation over the existing DH line due to the greater capacity of the double-tracked line and its better condition.

This decision is consistent with the emphasis of rail transportation policy upon competition, for it does not affect Conrail's obligation to provide service on demand over the Binghamton-Scranton line pending a favorable decision in DH's purchase application. Moreover, the line is clearly not necessary to Conrail's ability to compete with DH for overhead traffic, since Conrail has already diverted its overhead traffic to other routings. Finally, this decision is consistent with the policy to minimize the need for Federal regulatory control.

Additionally, the transaction is of limited scope. An exemption is sought only for the time necessary to decide DH's application in Finance Docket No. 29486 and will have the effect of continuing DH's present service. The transaction will have no effect on DH's markets, and application of 49 U.S.C. 11343 is not needed to protect shippers from an abuse of market power.

The exemption will be granted. In exempting this transaction we are not deciding whether DH's permanent application should be granted. That question will be decided when all the evidence is before us. Until that time we will maintain the status quo. DH is presently providing local service over the line more frequently than had been provided by Conrail, and DH's overhead service on the line is safer and more efficient than service over its parallel line. We note that this exemption does not relieve DH of its obligation to provide service as a common carrier on its own Lanesboro-Scranton line.

Section 10505 enables us to revoke an exemption if we find the exempted provision necessary to carry out the rail transportation policy. We have found otherwise on the facts currently available to us. However, we will permit interested parties to file petitions for reconsideration demonstrating that this exemption would contravene the rail transportation policy. Petitions for reconsideration must be filed on or before February 23, 1981.

Labor Protection. DH has requested exemption from 49 U.S.C. 11347 relating to labor protection. However, in granting an exemption under section 10505, we may not relieve a carrier of its obligation to protect the interests of employees as otherwise required by 49 U.S.C. subtitle IV. See 49 U.S.C. 10505(g)(2). We have determined that the employee protective provisions developed in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), apply to employees involved in purchase transactions under 49 U.S.C. 11343. Accordingly, these protective provisions will be imposed here. Our policy in approving exemptions in the future will be to impose that level of employee protection normally required for the type of transaction.

We find: (1) Commission regulation of these matters is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) The transaction is of limited scope.

(3) This decision will not operate to relieve any rail carrier from an obligation either (a) to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707 or (b) to protect the interests of employees as required by 49 U.S.C. 11347.

(4) This decision is not a major federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) Pursuant to 49 U.S.C. 10505, we exempt the operation by DH of the Binghamton, NY–Scranton, PA rail line from 49 U.S.C. 11343.

(2) Notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, Office of the Federal Register, for publication.

(3) This exemption will continue in effect until or unless (a) revoked or (b) we issue a decision under 49 U.S.C. 11343 granting or denying DH's application for authority to purchase and operate the rail line.

(4) This decision shall be effective February 1, 1981.

(5) Petitions to reopen this proceeding for reconsideration must be filed no later than February 23, 1981.

Decided: January 27, 1981.

By the Commission, Chairman Gaskins, Vice Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Chairman Gaskins not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3739 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

January 28, 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. on or before February 18, 1981.

No. 43898, Southwestern Freight Bureau, Agent B–116 as amended, reduced volume rates on Insectical chemicals, etc., from points in Louisiana and Texas to Bay City, Midland, MI and Sarnia, ON, in Supplement 84 to its Tariff ICC SWFB 4616, effective February 11, 1981. Grounds for relief—market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3738 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, Federal Register at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349. These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved

fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed on or before March 20, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Decided: January 27, 1981.

By the Commission, by Review Board number 5, members Krock, Taylor, and Williams.

MC-F-14489F, filed October 14, 1980. (correction) (previously published in the Federal Register issue of November 13, 1980). CENTRAL TRANSFER CO. (100 Kellogg Street, Jersey City, NJ 07306)—control—Monahan Transportation Co. (99 Colorado Avenue, Warwick, RI 01888). Representative: Ronald I. Shapps, 450 7th Avenue, New York, NY 10123. The notice as published in the Federal Register issue of November 13, 1980, incorrectly contained an Impediment. The majority of the Review Board voted to approve the application without the impediment.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3737 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 10]

Motor Carrier Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 27, 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 on or before March 2, 1981, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 2202 (Sub-654X), filed January 19, 1981. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, 7101 Wisconsin Ave., Washington, DC 20014. Applicant seeks removal of restrictions in its Sub-No. 582 certificate which authorizes the transportation of general commodities (with usual exceptions), over described regular routes, between Meridian, MS, and St. Louis, MO, serving Memphis, TN for purposes of joinder only but restricted against tacking at Memphis on shipments originating at or destined to points in AR, to (1) remove the interline restrictions, and (2) authorize service at all intermediate points in connection with its regular-route operations.

MC 25869 (Sub-178X), filed January 21, 1981. Applicant: C. O. D. E., INC., 4800 North Colorado Boulevard, Denver, CO 80216. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Applicant seeks to broaden its commodity descriptions to such commodities as are dealt in or used by grocery and food business houses from foodstuffs in Sub-Nos. 85, 152F, and 157F, food products in Sub-No. 108, food, food products, and animal feed in Sub-No. 152F, and canned and preserved food stuffs in Sub-No. 157F. Applicant also seeks to (1) remove the plantsite restrictions of (a) Green Giant Co. at or near Belvidere, IL in Sub-Nos. 85 and 152F, (b) A. E. Staley Manufacturing Co. at or near Chicago, IL, in Sub-No. 136, (c) Blue Star Foods, at or near Omaha, NE, and Council Bluffs, IA, and Heinz USA at or near Muscatine and Iowa City, IA, in Sub-No. 157F, (d) Lever Brothers Company at or near St. Louis, MO, in Sub-No. 143F, (2) broaden the origin points to (a) Boone County, IL, for Belvidere, IL, in Sub-Nos. 85 and 152F, (b) Muscatine and Johnson Counties, IA, for Muscatine and Iowa City, IA, in Sub-Nos. 108 and 157F, (3) remove the except in bulk, in tank vehicles restrictions in Sub-Nos. 108, 136, 143F, 152F, and 157F, (4) remove territorial restrictions against transportation to AK and HI, in Sub-No. 57, and (5) broaden the one-way authority to radial authority in all the above Sub-Nos.

MC 29396 (Sub-389X), filed January 21, 1981. Applicant: THE WAGGONERS TRUCKING, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-Nos. 356F and 361F to (A) broaden the commodity description from (1) chemicals, chemical additives, plastics, resins, drilling mud, and drilling mud additives to "chemicals and related products, rubber and plastic products, and Mercer commodities in Sub-No. 356F, (B) broaden the commodity description from drilling mud and drilling mud additives (except in bulk, in tank vehicles) to "Mercer commodities" in Sub-No. 361F, and (C) delete the restrictions against the transportation of commodities "in bulk" and "in tank vehicles" in both authorities.

MC 65920 (Sub-11X), filed January 21, 1981. Applicant: BISHOP MOTOR EXPRESS, INC., 607 Century Avenue SW., Grand Rapids, MI 49503. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. Applicant seeks to remove restrictions in its Sub-No. 9 certificate to (1) broaden the commodity description from general commodities (with exceptions) to general commodities (except Classes A & B explosives) and, (2) expand its regular route authority to include service at all intermediate points between Grand Rapids, MI, and St. Paul, MN.

MC 111045 (Sub-189X), filed January 23, 1981. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as above). Applicant seeks of remove restrictions in a portion of its Sub 95 certificate to (1) broaden the commodity description from salt cake on Sheet No. 3 to "commodities, in bulk", (2) broaden a portion of the territorial description from one-way to radial authority to authorize service between points in AL, FL, GA, on the one hand, and, on the other, points in MS, TN, and SC; and (3) remove the restrictions (a) against the transportation of traffic originating at Atlanta, GA, Augusta, GA, and points within 10 miles thereof, and McIntosh, AL, (b) against the delivery of traffic at Elizabethton, TN, and (c) against the transportation of traffic from Jacksonville, FL, to Foley, Palatka and Eastport, FL.

MC 114227 (Sub-12X), filed January 21, 1981. Applicant: A & C CARRIERS, INC., 2909 East Laketon Avenue, Muskegon, MI 49442. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. Applicant seeks to modify its Sub 10 certificate by (1) broadening the commodity description from liquid asphalt to "petroleum and petroleum products," and (2) eliminating the in bulk, in tank vehicles restriction. Since applicant holds radial authority between the Chicago, IL commercial zone and points in MI, it can perform service radially between Lemont and Michigan.

MC 123887 (Sub-13X), filed January 19, 1981. Applicant: L. J. NAVY TRUCKING CO., a WV corporation, 2300 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Applicant seeks to remove restrictions from its lead and Sub-Nos. 7, 9, and 12F certificates in order to broaden the commodity description in each certificate from malt beverages to "food and related products;" in addition, in its lead certificate, part (A), applicant seeks to expand its one-way city authority to in some instances countywide authority and to serve radially between Peoria County, IL, Allen County, IN, Jefferson and Campbell Counties, KY, Detroit, MI, St. Louis, MO, Hamilton, Cuyahoga and Franklin Counties, OH, and Milwaukee, WI, and points in Cabell County, WV, and in part (B) applicant seeks to expand its one-way authority to serve radially between Cabell County, WV and points in 48 named counties in OH, Cabell, Wayne, and Mingo Counties, WV, and a described portion of KY; in Sub-No. 7, applicant seeks to broaden its base point of Pabst, GA, to Houston County, GA, and to expand its one-way authority to serve radially between Houston County, GA, and points in WV; in Sub-No. 9 applicant seeks (A) to expand its base point of Louisville, KY, to Jefferson County, KY, and to broaden its one-way authority to serve radially between Jefferson County, KY, and a described portion in Ohio, and (B) expand its base point of Peoria, IL, to Peoria County, IL, and the destination point of Logan, WV, to Tazewell County, WV, and to serve radially between Peoria County, IL, and points in Tazewell County, WV; in Sub-No. 12F applicant seeks to expand its limited service points to countywide authority and to broaden its one-way authority to serve radially (a) between Rockingham County, NC, and points in Kanawha and Mingo Counties, WV, (b) between Newark, NJ, and points in Cabell County, WV, Lawrence and Scioto Counties, OH, and (c) between Peoria County, IL, and Milwaukee, WI, and points in Lawrence and Scioto Counties, OH.

MC 133591 (Sub-116X), filed January 22, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, Jr., 58 South Main St., Winchester, KY 40391. Applicant seeks to remove restrictions in its Sub 38F and 46F certificates by (1) broadening the commodity description from confectioneries and cough drops to "food and related products"; (2) replacing the Reading, PA, plantsite restriction of Ludens, Inc., with Berks County, PA in both certificates; and (3) broadening its one-way authority to radial between Berks County, PA, and points in MS, LA, TN, AR, OK, KS, MO, TX, CO, NM, UT, AZ, NV, CA, ID, OR, WA, and points in a described portion of Illinois.

MC 133591 (Sub-117)X, filed January 22, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. Applicant seeks to remove restrictions in its Sub-No. 3 certificate to (1) broaden the commodity description in the first part of Sub-No. 3 by replacing kitchen chairs and household stools with "furniture or fixtures", by eliminating the restriction against sand boxes, blackboards, and chalkboards in the second part of its commodity authority, and by eliminating the "in bulk" restriction; (2) broaden the territorial description by replacing the facilities restriction at or near Neosho, MO, with Newton County, MO, by replacing Booneville, AR with Yell County, AR, and by replacing the one-way authority with radial authority between (1) points in Newton County, MO, and El Paso, TX, and points in 9 named states, and (2) Yell County, AR, and points in 9 named states.

MC 140361 (Sub-7)X, filed January 21, 1981. Applicant: CPS DELIVERY SYSTEM, INC., 1009 Joyce Avenue, Columbus, OH 43219. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017. Applicant seeks to remove restrictions in its Sub-Nos. 4 and 5 certificates to (1) broaden the commodity description from general commodities (with exceptions) to "general commodities" (except Classes A&B explosives) in sub-No. 4; (2) eliminate restrictions limiting transportation to articles or packages not exceeding 200 pounds from one consignor to another consignor in any single day, in Sub-No. 4, and limiting transportation to articles not exceeding 100 pounds in weight, moving as shipments not exceeding 500 pounds in weight from one consignor to one consignor in a single day in Sub-No. 5, and (3) eliminate restrictions to the transportation of shipments moving on freight forwarders bills of lading in Sub-No. 5.

MC 141016 (Sub-1)X, filed January 22, 1981. Applicant: HARRINGTON TRUCKING, INC., P.O. Box 15771, Salt Lake City, UT 84115. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Applicant holds authority in its lead certificate to transport, over irregular routes, machinery and machinery parts, and mining and construction materials, equipment, and supplies, between points, both of which are in the same State, in ID, UT, and MT. It seeks to remove a restriction requiring traffic to have an immediately prior or subsequent movement by rail carrier.

MC 142909 (Sub-13)X, filed January 22, 1981. Applicant: TIMBER TRUCKING, INC., 35 South 600 West, Salt Lake City, UT 84101. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1 and 4F certificates to (1) broaden the commodity description from salt, salt products, and mineral mixtures to "chemicals and related products" in its lead and Sub-No. 1 certificates and from lumber, lumber mill products, laminated beams, trusses and joints and building materials to "lumber and wood products, and building materials" in Sub-No. 4, (2) remove the "except commodities in bulk restriction in Sub-No. 1 and "except asphalt in bulk" restriction in Sub-No. 4, (3) authorize radial authority for existing one-way

authority between Flux, Lake Point, and Saltair, UT, and OR and WA in its lead certificate; between UT and OR, WA, ID and MT in Sub-No. 1; and between named points in several western states in Sub-No. 4, (4) remove restrictions "against the transportation of lumber, lumber mill products, particle board, hardboard, and hardboard paneling from OR and WA to named counties in ID" and "against the transportation of gypsum building materials from Sigurd, UT" in Sub-No. 4, (5) eliminate plantsite restrictions located at or near Magna, and Salt Lake City, UT, and a restriction limiting service to traffic originating at and destined to named destinations in Sub-No. 4.

MC 143059 (Sub-152X), filed January 19, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza Louisville, KY 40202. Applicant seeks to remove restrictions in its Sub-No. 47F certificate in order to (1) broaden the commodity description from bentonite, barite, lignite, and drilling mud additives to "Mercer Commodities" (2) eliminate the "except in bulk" restriction; and (3) remove the territorial restriction against service to AL and HI.

MC 143710 (Sub-2X), filed January 22, 1981. Applicant: KAL AUTO TRANSPORT, Pier 70, 22nd St. and Illinois Ave., San Francisco, CA 94107. Representative: David J. Marchant, One Maritime Plaza, San Francisco, CA 94111. Applicant seeks removal of restrictions in its lead and Sub-No. 1 permits to (1) broaden the commodity description in each to "transportation equipment" from new automobiles, and (2) authorize service between points in the U.S., under continuing contract(s) with the named shippers.

MC 144189 (Sub-12X), filed January 22, 1981. Applicant: CORPORATE TRANSPORT, INC., 107 7th N St., Liverpool, NY 13088. Representative: John L. Alfano, Esq., 550 Mamaroneck Ave., Harrison, NY 10528. Applicant seeks to remove restrictions from its Permit Nos. MC–144189 (M1F) and (Sub-Nos. 1F, 2F, 4F, 6F, 7F, 8F, 9F, and 10F) which authorize the transportation of such commodities as are dealt in by manufacturers of paper and paper products in all permits except Sub–9F, and in M1F, materials, equipment and supplies used in the manufacture of those commodities, and in Sub-9F, cartons, not corrugated, between specified points under continuing contract(s) with named shippers. Applicant seeks to (A) eliminate the bulk restrictions in Subs M1F, 2F, 4F, 6F, 7F, 8F, and 10F; change the commodity description in Sub–9F to "such commodities as are dealt in by manufacturers of paper and paper products"; eliminate the materials description in Sub-M1F; and remove the facilities limitations in Sub–No. 2F and 8F; and (B) broaden the territorial description in each permit to between points in the United States under continuing contract(s) with named shippers.

MC 144675 (Sub-7X), filed January 19, 1981. Applicant: LINCOLN FREIGHT FORWARDING CORP., 537 North Long Beach Road, Rockville Centre, NY 11570. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1F, 2F, and 3F certificates to broaden the commodity description in each certificate from general commodities (with usual exceptions) to "general commodities (except Classes A and B explosives);" and in Sub-No. 1F to broaden the territorial description from one-way authority to radial authority (1) between points in CA, and those points in the United States which are in and east of ND, SD, NE, CO, OK, and TX, and (2) between points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NJ, NY, OH, PA, RI, TN, VT, VA, WV, and DC, and points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY; in Sub-3F to broaden the territorial description from one-way authority to radial authority (1) between points in TX, and points in AZ, CA, CO, NM, OK, ME, VT, NH, MA, RI, CT, NY, NJ, PA, DE, MD, VA, LA, WV, OH, MI, IN, IL, KY, TN and DC, and (2) between points in MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, OH, MI, IN, IL and CA, and points in TX. Applicant also seeks to (1) remove the restriction limiting transportation to traffic moving on bills of lading of freight forwarders in all the above certificates, and (2) remove the restriction in Sub-No. 2F against transportation of shipments having a prior or subsequent movement by air or moving in a substituted motor for air service.

MC 145122 (Sub-3X), filed January 23, 1981. Applicant: SKYLAND, INC., 256 Celia St. SW., Wyoming, MI 49508. Representative: Eillian H. Towle, 180 N. LaSalle St., Suite 3520, Chicago, IL 60601. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the territorial description from Detroit Metropolitan Airport, MI, and Willow Run Airport, MI, to Wayne County, MI, and Washtenaw County, MI, respectively, (2) broaden the commodity description by deleting all restrictions in its general commodity authority except classes A and B explosives, and (3) eliminate the ex-air restriction.

MC 146953 (Sub-3X), filed January 23, 1981. Applicant: MONROE FUGATE, d.b.a. H & M CARTAGE, 17151 South Overhill, Tinley Park, IL 60477. Representative: William D. Brejcha, 10 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-No. 1F permit to (1) authorize "such commodities as are manufactured by, used by, dealt in, or distributed by manufacturers of plastic articles" in lieu of plastic articles and chemicals, and materials, equipment, and supplies; (2) remove the "except in bulk" restriction; and (3) authorize service "between points in the U.S." under continuing contract(s) with a named shipper.

MC 147209 (Sub-4X), filed January 21, 1981. Applicant: QUASAR EXPRESS, INC., 3920 S. Western Ave., P.O. Box 40, Sioux Falls, SD 57101. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Applicant seeks removal of restrictions in its Sub-No. 3 certificate to (1) remove restrictions against the transportation of commodities in bulk and in tank vehicles, to allow such commodities as are dealt in by drugstores, (2) substitute county-wide authority for Huron and Sioux Falls, SD, and Mankato, MN, (3) remove the restriction to traffic destined to a named shipper's facilities, and (4) change the one-way authority to authorize radial authority between AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, TN, VT, VA, WV, and, Beadle and Minnehaha Counties, SD, and Le Sueur County, MN.

MC 147323 (Sub-28X), filed January 21, 1981. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Applicant in its Sub-Nos..15F, 18F and 22F certificates seeks to 1) make uniform its commodity descriptions to such commodities as are used by or dealt in by manufacturers, processors and distributors of iron and steel articles, and 2) remove the commodities in bulk restrictions.

MC 147400 (Sub-6X), filed January 23, 1981. Applicant: RAERMARC, INC., 1903 Chicory Road, Racine, WI 53403. Representative: William D. Brejcha, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Applicant seeks to remove restriction in its Sub-No. 4F certificate to (1) broaden the commodity description from general commodities (with usual exceptions) and empty

containers to "general commodities (except classes A and B explosives)", and (2) remove the restriction to traffic having a prior or subsequent movement by rail or water.

MC 148029 (Sub-3X), filed January 21, 1981. Applicant: DORMAN TRANSPORT CORP., 105 3rd Street, Monroe, WI 53566. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th Street, Denver, CO 80202. Applicant seeks to remove restrictions in its Sub-No. 2F to (1) broaden the commodity description from cheese, cookies, display racks, and packaging materials, to "food and related products", and (2) broaden the territorial description to between points in the United States, under contract(s) with named shippers.

MC 150958 (Sub-2X), filed January 21, 1981. Applicant: GRANNY'S EXPRESS, INC., 2101 Ross Ave., Cincinnati, OH 45212. Representative: E. H. van Deusen, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Applicant seeks to remove restrictions in its MC-150958F permit which authorizes the transportation of general commodities (with usual exceptions), to (1) remove all restrictions in its commodity authority except classes A and B explosives, and (2) authorize service between points in the United States, under continuing contract(s) with a named shipper.

[FR Doc. 81-3744 Filed 2-2-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 9]

Permanent Authority Decisions; Restriction Removals Decision-Notice

Decided: January 27, 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 on or before March 2, 1981, 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 regulator requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 2960 (Sub-41X), filed January 19, 1981. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, INC., P.O. Box 4362, Houston, TX 77210. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75235. Applicant seeks to remove restrictions in its Sub-No. 1 certificate by deleting from the general commodity description all exceptions except classes A and B explosives, and by replacing the one way authority with radial authority between Houston, TX, and Lake Charles and Shreveport, LA, and a described portion of TX.

MC 98327 (Sub-50X), filed January 16, 1981. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Bruce H. Howe (same as above). Applicant holds regular-route authority in its Sub-6, 7, 8, 11, 13, 14, 17, 20, 21, 26, 39, 41, 43 and 44 certificates. It also has acquired operating authorities MC 135550 in MC-F-12312, MC-108461 and Sub-52 and 81 in MC-F-14102, and MC 59680 in MC-F-14188, with reissued certificates still pending. It seeks to remove restrictions in portions of each certificate which limit service for purpose of joinder only and which limit service to specified or no intermediate points, in order to authorize service at all intermediate points in connection with its general commodities, regular-route operations, between points in CA, OR, NV, WA, AZ, TX, NM, UT, ID, MT, and OK.

MC 106195 (Sub-31X), filed January 23, 1981. Applicant: CLARK BROS. TRANSFER, INC., 900 North First, Norfolk, NE 68701. Representative: Arlyn L. Westergren, 9202 West Dodge Road, Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-No. 16 certificate to (1) expand the commodity description from (a) carbonated beverages, pallets, and packing materials used in the manufacture, distribution, and sale of carbonated beverages and (b) materials, supplies, and equipment used in the manufacture, distribution and sale of carbonated beverages (except commodities in bulk) to "food and related products", (2) remove the "except commodities in bulk" restriction; (3) replace the city of Norfolk, NE, with county-wide authority in Madison County, NE; (4) authorize radial authority in lieu of existing one-way authority between Madison County, NE, and CO, IL, IN, IA, KS, MN, MO, SD, WI, & WY, and (5) remove the restriction limiting service to the transportation of traffic originating at the named origins and destined to the named destinations.

MC 121060 (Sub-134X), filed January 15, 1981. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: Ronald F. Harris (same as above). Applicant seeks to broaden its commodity descriptions to (1) construction materials, and materials, equipment and supplies used in the manufacture and distribution of such commodities in (a) Sub-5, 7, 8, 20, 21, and 40 from roofing and roofing materials, (b) Sub-8, 27, 33, and 63F from composition board, (c) Sub-10, 19, 18, 22, 53, 70F, 71F, 74F, 75F, 76F, and 78F from construction materials, (d) Sub-Nos. 43 and 48 from plywood and composition board, (e) Sub-57F from building materials; (2) metal articles, and material, equipment and supplies used in the manufacture and distribution of such commodities in (a) Sub-Nos. 8 and 59F from aluminum and aluminum articles, (b) Sub-16 from pipe fittings, valves, hydrants, gaskets, (c) Sub-17, 54F, and 55F from steel wire, steel plate, steel bars, (d) Sub-67F, 62F, 85F, and 91F from iron and steel articles, iron and steel pipe; (3) pipe and materials, equipment, and supplies used in the manufacture and distribution of such commodities in Sub-52 from pipe and pipe fittings; (4) plastic articles, metal articles and materials, equipment and supplies used in the manufacture and distribution of such commodities in Sub-50 and 73F from pipe, pipe fittings, value, hydrants; (5) lumber and wood products, construction materials from plywood paneling and composition board in Sub-115F. Applicant also seeks (1) in Sub-5, 7, 8, 10, 19, 18, 20, 21, 22, 40, 53, 57F, 69F, 70F, 71F, 74F, 75F, 76F, 78F, 16, 91F, 52, 115F, and 65F to remove the restriction "except commodities in bulk"; (2) in Sub-5, 7, 8, 10, 19, 18, 20, 21, 22, 27, 42, 43, 44, 48, 63F, 16, 17, 54F, 67F, 55F, 59F, 62F, 85F, 91F, 50, 73F, 52F, and 115F to change the one-way authority to authorize radial authority between named counties and points in numerous States in the midwestern and southeastern parts of the United States; and (3) in all the authorities named in (2)

above, to substitute specific counties for the specified plantsite facilities and cities: Jefferson County, AL, for Birmingham, AL, in Sub-5, 7, and 52F, Lauderal County, MS, for Meridian, MS, in Sub-8; Cuddo Parrish, LA, for Shreveport, LA, in Sub-8; Charleston County, SC, for Charleston, SC, in Sub-8, 48 and 115F; Hertford County, NC, for Winston, NC, in Sub-8; Coles County, IL, for Charleston, IL, in Sub-10 and 19; Shelby County, TN, for Memphis, TN, in Sub-18; Ottawa County, OH, for Clinton, OH, in Sub-21; Jefferson Parrish, LA, for Marrero, LA, in Sub-22; Marion County, SC, for Marion, SC, in Sub-27; Fayette County, GA, for Peachtree City, GA, in Sub-40; Duval County, FL, for Jacksonville, FL in Sub-42; Orangeburg County, SC, for Orangeburg, SC, in Sub-43; Miller County, AR, for Texarkana, AR, in Sub-53; Warren County, OH, for Franklin, OH, in Sub-57F; Porter County, IN, for Burns Harbor, IN, in Sub-63F; Dubuque County, IA, for Dubuque, IA, in Sub-69F; Northumberland County, PA, for Sanbury, PA, in Sub-70F; Ouachita County, AR, for Camden, AR, in Sub-71F; Hardin County, KY, for Elizabethtown, KY, in Sub-74F; Hamilton County, OH, for Lockland, OH, in Sub-75F; Will County, IL, for Wilmington, IL, in Sub-78F; Tuscaloosa County, AL, for Holt, AL, in Sub-16; Sumner County, TN, for Gallatin, TN, in Sub-17; Etowah County, AL, for Gadsden, AL, in Sub-54F and 67F; Kankakee County, IL, for Kankakee, IL, in Sub-55F; Jackson County, WV, for Ravenswood, WV, in Sub-59F; Cooke County, IL, for Evanston, IL, in Sub-62F; Allegheny County, PA, for Clairton, Duquesne, Homestead, Dravosburg, McKeesport, and McKees Rock, PA, Bucks County, PA, for Fairless, PA, Cambria County, PA for Johnstown, PA, Westmoreland County, PA, for Vandergrifts, PA, Cuyahoga County, OH, for Cleveland, OH, Lorain County, OH, for Lorain, OH, and Mahoning County, OH, for Youngstown, OH, in Sub-85F; Lake County, IN, for Gary, IN, Will County, IL, for Joliet, IL, Lake County, IL, for Waukegan, IL, and Chicago, IL, for South Chicago, IL, in Sub-91F; Talladega County, AL, for Lincoln, AL, in Sub-50; Mecklenburg County, NC, for Charlotte, NC, and Union County, NC, for Bakers, NC, in Sub-73F; Calhoun County, AL, for Anniston, AL, in Sub-52; Camden County, NJ, for Camden, NJ, Chatham County, GA, for Savannah, GA, Sumter County, GA, for Plains, GA, Harris County, TX, for Houston, TX, Galveston County, TX, for Galveston, TX, Hillsbourough County, FL, for Tampa, FL, Jacksonville County, FL, for Jacksonville, FL and Mobile County, AL, for Mobile, AL, in Sub-115F; and Pipe County, AL, for Brundidge, AL, in Sub-65F.

MC 121821 (Sub-13X), filed January 23, 1981. Applicant: TENNESSEE MOTOR LINES, INC., P.O. Box 100363, Nashville, TN 37210. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Applicant seeks to remove restrictions in its Sub-4F, 7F, and 10F certificates to (1) remove all exceptions in its general commodity authority except "classes A and B explosives"; and (2) authorize service at all intermediate points between (a) Knoxville and McMinnville, TN, in Sub-4F, (b) Loudon and Nashville, TN, in Sub-7F, (c) Nashville and Jasper, TN, in Sub-10F.

MC 123156 (Sub-8X), filed January 23, 1981. Applicant: RAND'S TRANSPORT, INC., P.O. Box 96, Lithicum, MD 21090. Representative: Walter T. Evans, 7961 Eastern Avenue, Silver Spring, MD 20910. Applicant seeks to remove restrictions in its Sub-5F permit to (1) broaden its commodity description from petroleum products, in bulk, (except asphalt, asphalt products, and petrochemicals) to "petroleum products," and (2) broaden the territorial scope to between points in the United States. under continuing contract(s) with a named shipper.

MC 128205 (Sub-102X), filed January 23, 1981. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 S. Doty Avenue, Chicago IL 60628. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-21 certificates, (1) by broadening the commodity description flour, in bags, to "food and related products," (2) by broadening the territorial authority from named facilities at Gary, IN, and Chicago, IL, to Lake County, IN, and Chicago, IL and (3) by replacing one-way authority with radial authority between the origins in (2) and points in IN, MI, and OH.

MC 128746 (Sub-69X), filed January 21, 1981. Applicant: D'AGATA NATIONAL TRUCKING, 3240 S. 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-33 certificate to (1) expand the territorial authority from the Eden, NC, origin to the county-wide authority of Rockingham County, NC, (2) delete the "commodities in bulk" restriction and (3) authorize radial authority for existing one-way authority between Rockingham County, NC, and DE, MD, NJ, NY, PA, VA, WV, DC.

MC 133591 (Sub-118X), filed January 22, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, Jr., 58 South Main St., Winchester, KY 40391. Applicant seeks to remove restrictions in its Sub-13 to (1) broaden the commodity description from foodstuffs (except frozen foods, candy and confectioneries, fresh meat and packinghouse products, dairy products, yeast, bakery goods, alcoholic beverages, and commodities in bulk) to "food and related products", (2) broaden the territorial description by (a) replacing the plantsite and storage facilities restriction at or near Webb City, MO, with Jasper County, MO, and (b) replacing the one-way authority with radial authority between Jasper County, MO, and points in AZ, NM, TX, (except Sherman, Dennison, Fort Worth, and Dallas), CO, CA, OR, and WA.

MC 135231 (Sub-50X), filed January 21, 1981. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Applicant seeks to remove restrictions in its Sub-41F certificate by (1) broadening the commodity description from cleaning and polishing compounds, textile softeners, plastic bags filters, and other named products, to "chemicals and related products", and "plastic products", (2) eliminating the bulk restriction, (3) removing the territorial restrictions against transportation to AK and HI, and (4) by expanding the territory from plantsite facilities to counties: Will County, IL, for Joilet, IL, Rock County, WI, for Beloit, WI, Santa and Los Angeles Counties, CA, for San Jose and City of Industry, CA, Wayne County, MI, for Detroit, MI, Ramsey County, MN, for St. Paul, MN, Dallas County, TX, for Garland, TX, York County, PA, for Hanover, PA, Middlesex and Bergen Counties, NJ for Woodbridge, Palisades Park, and South Plainfied, NJ.

MC 135231 (Sub-51X), filed January 21, 1981. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Applicant seeks to remove restrictions in its Permits MC 134145 (Sub-39, 42, 46, 47, 52, 56, 57, 60, 61, 62, 66, 68F, 69F, 72F, and 75F) to (1) broaden the commodity description from computing machines, parts, materials, supplies and equipment to machinery, (2) remove the bulk restrictions and (3) broaden the

territorial description in all of the above Subs and Sub-71F to be between points in the United States under a continuing contract(s) with named shippers.

MC 136246 (Sub-44X), filed January 23, 1981. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Road, Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-42 certificate (1) by broadening the commodity description iron and steel articles to "metal products," (2) by broadening the territorial authority from a named facility at Omaha, NE, to Omaha, NE, and (3) by replacing one-way authority with radial authority between Omaha and points in OH and IN.

MC 136246 (Sub-47X), filed January 23, 1981. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 201, 9202 West Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions from its Sub-36F and 41F certificates which authorize the transportation of (1) metal buildings and grain handling equipment, accessories, and parts, (2) materials, equipment, and supplies used in the manufacture of the commodities in (1) above, and (3) pneumatic conveyor equipment, parts and accessories and such commodities as are used in the manufacture and production of the aforementioned commodities, between the facilities of Welco Control Systems, at Hastings, NE, and Cyclonaire Corp. at Henderson, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI). Applicant seeks to (1) broaden the commodity description in each to read "metal products, and machinery", (2) replace plantsite restrictions with country-wide authority in Sub-36F with Adams County, NE and Sub-41F with York County, NE, and (3) delete service restrictions to AK and HI.

MC 140193 (Sub-13X), filed January 22, 1981. Applicant: RICH GRANT, INC., 910 W 24th St., Ogden, UT 84401. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Applicant seeks to remove restrictions in its permits to (1) broaden the commodity descriptions to "food and related products" from (a) meats, meat products, meat by-products and articles distributed by meat packing houses as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in Sub-2F, 5F, 8F, and 11F, and (b) cheese, cheese products, and synthetic cheese in Sub-4F; (2) broaden the territorial scope of the named authorities to between points in the United States, under continuing contract(s) with named shippers; and (3) eliminate the "except hides, inedible tallow, and commodities in bulk" restrictions in Sub-2F, 5F, 8F, and 11F.

MC 146298 (Sub-4X), filed January 22, 1981. Applicant: KESS TRANSPORTATION, INC., Box 5091, Cincinnati, OH 45205. Representative: Elrc Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-2F and 3F certificate to (1) broaden the commodity descriptions from empty plastic bottles and plastic bottles to "rubber and plastic products," and from pesticides and fertilizers to "chemicals and related products;" (2) in Sub-3F, authorize service between Oldham County, KY in place of Buckner, KY, on the one hand, and, on the other, points in named Southern and Midwestern States, and remove the restriction against commodities in bulk.

MC 145441 (Sub-139X), filed January 21, 1981. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as above). Applicant seeks to remove restrictions in its Sub-62F certificate which authorizes the transportation of boxed meat, from points in Los Angeles, CA to points in AL, FL, IL, KS, LA, MA, MD, MO, NJ, OH, PA, TN, TX, VA, and DC by (1) broadening its city-wide Los Angeles, CA authority to county-wide Los Angeles County, CA, authority and (2) removing the restriction to traffic originating at the facilities of Landmark Beef Processors, Inc. and destined to the indicated destinations.

MC 147231 (Sub-2X), filed January 22, 1981. Applicant: MARCH TRANSPORT CO., 3401 West Pershing Road, Chicago, IL 60632. Representative: Charles A. Webb, 1828 L Street, NW., Suite 1111, Washington, DC 20036. Applicant seeks in its Sub-1F certificate which authorizes the transportation of general commodities (with the usual exceptions), to remove the restriction which limits it to the transportation of traffic moving on freight forwarder bills of lading or having a prior or subsequent move by a freight forwarder in connection with its radial operations between named California, Illinois, and New York points.

MC 147536 (Sub-27X), filed January 21, 1981. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant). Applicant seeks to remove restrictions in its Sub-4F certificate to (1) broaden the commodity description from glass containers, closures therefor, and paper containers when moving in mixed shipments with glass containers, to "clay, concrete, glass, or stone products", and (2) expand the territorial authority from the city of Sapulpa, OK, to Creek County, OK and (3) authorize radial authority in lieu of existing one-way authority between Creek County, OK, and AR, IL, IN, IA, KS, MN, MO, NE, TN, TX, and WI.

MC 148291 (Sub-9X), filed January 21, 1981. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Applicant seeks to remove restrictions in its Sub-4F and 6F certificates which authorize the transportation of general commodities (with the usual exceptions) over a series of described regular routes extending, in Sub-4F, (a) between Memphis, TN, and Conway, AR, serving no intermediate points, restricted against the transportation of shipments moving between Memphis and Little Rock, AR, and (b) between Memphis and Harrison, AR, serving all intermediate points between Mountain Home, AR and Harrison, AR, including Mountain Home, restricted in (a) and (b) against traffic moving between Memphis and Dallas, TX, and points in their commercial zones. The Sub-6F certificate authorizes service between Harrison and Ft. Worth, TX, serving all intermediate points in AR between Harrison and Little Rock, including Little Rock and Dallas. Applicant seeks, in both certificates, authority to serve all intermediate points, to remove restrictions on all local service as authorized above, and to remove all exceptions from its general commodity authority except "classes A and B explosives."

MC 149206 (Sub-5X), filed January 21, 1981. Applicant: BREWTON EXPRESS, INC., P.O. Box 508, Winnfield, LA 71483. Representative: Brian E. Brewton (same address as above). Applicant seeks to remove restrictions in Sub-3F, 4F, 9F, 10F, and 11F permits to (1) broaden the commodity description from lumber, poles, posts, piling, ties, and cross arms to "lumber and wood products," (2) remove the plantsite restrictions and (3) broaden the territorial description to between points in the United States, under continuing contract(s) with a named shipper.

[FR Doc. 81-3743 Filed 2-2-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-144]

Motor Carrier Permanent Authority Decisions; Decision-Notice

Decided: January 21, 1981.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before March 20, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

MC 73165 (Sub-539F), filed December 30, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11088, Birmingham, AL 35202. Transporting *general commodities*, between Shelby, AL, Mendon, IL, Pierce, WV, Library, PA, Carrollton, MO, Oelwein, Dundee and Thorpe, IA, Cheviot, Bridgetown, and Covedale, OH, Mintz and Highsmiths, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 148434 (Sub-2), filed January 5, 1981. Applicant: SECURITY, INCORPORATED, 711 Franklin Square, Michigan City, IN 46360. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

[FR Doc. 81-3742 Filed 2-3-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539. 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 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 5, 1981, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

On or before April 6, 1981, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP2-163

Decided: January 22, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 98572 (Sub-82), filed January 6, 1981. Applicant: SOUTHEAST TEX-PACK EXPRESS, INC., P.O. Box 47960, Dallas, TX 75247. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *Shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 153462, filed December 24, 1980. Applicant: DWIGHT B. LITTLEFIELD, 2900 Lake Bonnet Road, Box 26, Avon Park, FL 33825. Representative: David E. McCabe, Route #1 By-Pass, P.O. Box 402, Kittery, ME 03904, (207) 439–1847. Transporting *food and other edible products and byproducts, intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S.

Volume No. OP2–166

Decided: January 28, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 152563, filed January 22, 1981. Applicant: JAKOB MEIDERDRUT, d.b.a. JACK MEIDERDRUT & ASSOCIATES, 1044 Woodcliff Drive, Franklin Square, NY 11010. Reprsentative: Jakob Meiderdrut (same address as applicant), 516–872–9837. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 153363 (Sub-1), filed December 30, 1980. Applicant: AMERICAN MESSENGER SERVICE, INC., 160 Lake Ave., Manchester, NH 03105, Representative: Susan M. Vercillo, 1850 Elm St., Manchester, NH 03105. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 153522, filed December 16, 1980. Applicant: C. T. STRADLEY II, d.b.a. CHUCK STRADLEY & ASSOCIATES, 12226 Hoggard Dr., Stafford, TX 77477. Representative: C. Thomas Stradley II (same address as applicant), (713) 933–4518. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 153542, filed January 5, 1981. Applicant: ROBERT WILSON, P.O. Box 71832, Los Angeles, CA 90001. Representative: Robert Wilson (same address as applicant). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 153543, filed December 30, 1980. Applicant: FRANK E. WOLFE, d.b.a. FRANK E. WOLFE TRUCKING, Route 1, Box 336, Madras, OR 97741. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP3–150

Decided: January 21, 1981.

By the Commission, Review Board No. 2, Members Chandler, Eaton, and Liberman.

MC 74165 (Sub-540), filed January 13, 1981. Applicant: EAGLE MOTOR LINES, INC., 830 N. 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202, (205) 324–6671. Transporting *general commodities* (except classes A and B explosives), between Walnut Grove and Youngstown, IL, and Picher and Commerce, OK, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 140905 (Sub-3), filed January 5, 1981. Applicant: EAGLE EXPEDITING, INC., 5215 North Grand River, Lansing, MI 48901, Representative: Robert E. McFarland, 2855 Coolidge Rd., Suite 201A, Troy, MI 48084. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds. between points in the U.S.

Volume No. OP3–152

Decided: January 26, 1981

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 148414 (Sub-4), filed January 8, 1981. Applicant: UNIDYNE CORPORATION, 3835 E. Princess Anne Re., Norfolk, VA 23502. Representative: David P. L. Berry, 820 F & M Bank Bldg., Norfolk, VA 23510. Transporting for or on behalf of the U.S. Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP4–208

Decided: January 7, 1981.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones. (Member Jones not participating.)

MC 147436 (Sub-4), filed January 13, 1981. Applicant: BELTMANN NORTH AMERICAN CO., INC., 3400 N.W. Spring, Minneapolis, MN 55413. Representative: Andrew R. Clark 1600 TCF Tower, Minneapolis, MN 55402. Transporting *used household goods* for the account of the United States Government incident to the performance of pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Volume No. OP5–30

Decided: January 22, 1981.

By the Commission, Review Board No. 3; Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 152238 (Sub-2), filed January 5, 1981. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., Box 288, Grenada, CA 96308. Representative: John R. Harleman (address same as applicant). Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3741 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539. 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 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authouity 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 operation authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal Action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before March 20, 1981, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor cntract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP5–26

Decided: January 22, 1981.

By the Commission, Review Board No. 3: Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 3328 (Sub-1), filed January 8, 1981. Applicant: A. D. McMULLEN, INC. 640 State Rd., N. Dartmouth, MA 02747. Representative: Francis J. McGuirk, 72 North Water St., New Bedford, MA 02740. Transporting *household goods*, between points in MN, IA, MO, AK, TX, LA, AL, TN, IL, IN, WI, MI, OH, KY, WV, GA, SC, FL, MS, ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, and DC.

MC 45968 (Sub-9F), filed December 31, 1980. Applicant: ENGLE OOSTDYK, INC., 465 Boulevard, Elmwood Park, NJ 07407. Representative: Harold H. Crist, PO Box 197, Elmwood Park, NJ 07407. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in NJ, Kent and New Castle Counties, DE, Berks, Bradford, Bucks, Carbon, Chester, Columbia, Cumberland, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Luzerne, Lycoming, Monroe, Montgomery, Northampton, Northumberland, Philadelphia, Pike, Schulkill, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York Counties, PA, Fairfield, Hartford, Litchfield and New Haven Counties, CT, Orange, Sullivan, Ulster Counties, NY, and that part of NY on, south and east of a line beginning at the MA-NY state line and extending along NY Hwy 2 to Troy, NY, then over NY Hwy 7 to Schenectady, NY, then over NY Hwy 5 to Albany, NY, then over US Hwy 9W to Newburgh, NY then over NY Hwy 32 to Highland Mills, NY then over NY Hwy 200 to Monroe, NY, then over US Hwy 6 to Harriman, NY, and then over NY Hwy 17 to the NY-NJ state line.

MC 136818 (Sub-122), filed January 13, 1981. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Rd., P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Rd., Suite 320, Phoenix, AZ 85008. Transporting *alcoholic beverages*, between points in UT, on the one hand, and, on the other, points in the U.S.

MC 144678 (Sub-33), filed January 6, 1981. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9333 West 110th St., Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). Transporting *general commodities* (except classes A and B explosives), serving points in WI as off-route points in connection with carrier's otherwise authorized regular-route service.

MC 144709 (Sub-10), filed January 5, 1980. Applicant: MINERAL CARRIERS, INC., P.O. Box 110, Bound Brook, NJ 08805. Representative: Paul J. Keeler, P.O. Box 253, South Plainfield, NJ 07080. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Westvaco Corporation of New York, NY.

MC 144829 (Sub-6F), filed December 31, 1980. Applicant: HB MUCHMORE, d.b.a. MUCHMORE TRUCKING, 4659 Crate Lake Hwy., Medford, OR 97501. Representative: Jerry R. Woods, Suite 1600, One Main Pl., 101 SW Main St., Portland, OR 97204. Transporting (1) *prefabricated wooden buildings*, knocked down, from points in Lane and Jackson Counties, OR, to points in AZ, CA, NV, and WA, and (2) *general commodities* (except household goods as defined by the Commission, classes A and B explosives and commodities in bulk, in tank vehicles), between points in CA, OR, and WA.

MC 147499 (Sub-4F), filed December 22, 1980. Applicant: D. H. TRANSFER, INC., 671 M–73, Iron River, MI 49935. Representative: Donald Hooper (same address as applicant). Transporting (1) *hardwood and synthetic flooring*, (2) *materials and supplies* used in the manufacture and installation of the commodities in (1) above, and (3) *lumber, wood products and millwork*, between points in Iron County, MI, on the one hand, and, on the other, points in and east of IN, KY, TN, and MS.

MC 147939 (Sub-3), filed January 2, 1981. Applicant: CHARLOTTE VAN & STORAGE COMPANY, INC., 213 Verbena St., P.O. Box 3544, Charlotte, NC 28203. Representative: Frank E. Watson, Jr. (same address as applicant). Transporting *general commodities* (except class A and B explosives), between points in NC, SC, GA, FL, AL, VA, MD, CT, DE, KY, ME, MA, MS, NH, NY, RI, VT, and DC.

MC 148428 (Sub-15), filed January 8, 1981. Applicant: BEST LINE, INC., P.O. Box 765, Hopkins, MN 55343. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402. Transporting *furniture and fixtures* between points in CA, CO, WI, ID, WA, SD, ND, MN, IA, NE, MT, VT, VA, and WY.

MC 149199 (Sub-4F), filed November 6, 1980. Applicant: O. R. MILLER, d.b.a. FRONTIER EXPRESS, 932 S.W. Second, Oklahoma City, OK 73102. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. Over regular routes: Transporting *general commodities*, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Lamont and Garber, OK, over OK Hwy 74, serving all intermediate points: (2) between Capron and Blackwell, OK, over OK Hwy 11, serving all intermediate points and the off-route points of Wakita, Manchester, Byron

and Amorita, OK; (3) between Caldwell, KS, and Tonkawa, OK: from Caldwell over U.S. Hwy 81 to junction with U.S. Hwy 60, thence over U.S. Hwy 60 to Tonkawa, and return over the same route, serving all intermediate points; (4) between Waynoka and Tonkawa, OK: from Waynoka, over U.S. Hwy 281 to junction with U.S. Hwy 64, thence over U.S. Hwy 64 to junction with U.S. Hwy 77, thence over U.S. Hwy 77 to Tonkawa, and return over the same route, serving all intermediate points and the off-route points of Pond Creek, Kremlin, and Garver, OK.

Note.—Purpose of this application is applicant seeks to substitute a single-line service for its existing joint-line service.

Volume No. OP5–27

Decided: January 22, 1981.

By the Commission, Review Board No. 3, members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 150288 (Sub-1F), filed December 22, 1980. Applicant: MADEMA's CARPETLAND, U.S.A., INC., 2914 Broadmoor, S.E., Kentwood, MI 49508. Representative: Curtis D. Jonker, 880 Union Bank Bldg., Grand Rapids, MI 49503. Transporting (1) *choir bases ond ploted parts,* and (2) *corpet ond floor covering,* between points in the U.S., under continuing contract(s) with Valley City Plating of Grand Rapids, MI and Carpetland, U.S.A., INC. of Saginaw, MI.

MC 150578 (Sub-7), filed January 6, 1981. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: E. Lewis Coffey (same address as applicant). Transporting *such commodities* as are dealt in by department and variety stores, between points in Dallas and Ellis Counties on the one hand, and, on the other, points in the U.S.

MC 151639 (Sub-1), filed January 5, 1981. Applicant: COMMAND TRANSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting *generol commodities* (except classes A and B explosives), (a) between points in MA, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS, and (b) between points in NY and NJ, on the one hand, and, on the other, points in CT, ME, NH, RI, and VT.

MC 151768 (Sub-10F), filed December 29, 1980. Applicant: ARM TRANSPORTATION CORP., P.O. Box 9480, Amarillo, TX 79105. Representative: A. J. Swanson, 226 N. Phillips Ave., P.O. Box 4103, Sioux Falls, SD 57101. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and commodities which because of size or weight require the use of special equipment), between points in the U.S., under continuing contract(s) with International Nu-Way Shippers, Inc. of Chicago, IL.

MC 151928 (Sub-1), filed January 9, 1981. Applicant: MELMARK CARTAGE CO., INC. 236 West Madison St., Villa Park, IL 60181. Representative: Anthony E. Young, 29 South La Salle St., Suite 350, Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, OH, IA, KY, MI, MN, MO, OH, TN, and WI.

MC 153259 (Sub-1F), filed December 29, 1980. Applicant: INLAND MOLASSES COMPANY, a corporation, American Trust Building, Dubuque, IA 52001. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309.Transporting *molosses, molosses blends, ond liquid feed,* from Dubuque, IA, to points in IL, MN, and WI. Conditions: Applicant shall conduct separately its for-hire carriage and other business operations. It shall maintain separate accounts and records for each operation. And it shall not transport property as both a private and for-hire carriers in the same vehicle at the same time.

MC 153489F, filed December 29, 1980. Applicant: TEX-WEST ENTERPRISES, INC., 5802 ½ Jensen, Houston, TX 72312. Representative: C. Jack Pearce, Suite 1200, 1000 Conn. Ave., NW., Washington, D.C. 20036. Transporting (1) *iron and steel orticles,* (2) *fobricoted metol products,* (3) *lumber,* (4) *building materiols,* and (5) *commodities* which by reason of size or weight require the use of special equipment, between points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada.

MC 153518F, filed December 29, 1980. Applicant: H. ROSKIN MOTOR SERVICE, INC., 4710 West Roosevelt Rd., Chicago, IL 60650. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in by retail and wholesale food business houses, between the facilities of Hunt-Wesson Foods, Inc., at Chicago, IL, on the one hand, and, on the other, points in IN.

MC 153528F, filed December 30, 1980. Applicant: HARRY MARVEL TRUCKING, 525 N. E. Halsey, Troutdale, OR 97060. Representative: Harry Marvel (same address as applicant). Transporting *lumber, lumber mill products, ond forest products,* between points in OR, WA, ID, and CA.

MC 153538F, filed December 22, 1980. Applicant: RICK L. KING, P.O. Box 72, Gap, PA 17527. Representative: John W. Metzger, 49 North Duke St., Lancaster, PA 17602. Transporting *agricultural limestone* (1) from points in Lancaster County, PA, to points in NY, NJ, DE, MD, and VA, and (2) from points at or near Viola and Laurel, DE, to points in MD and VA.

Volume No. OP5–28

Decided: January 22, 1981.

By the Commission, Review Board No. 3; members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 35358 (Sub-59), filed January 5, 1981. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Drive N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. Transporting *chemicols ond reloted products ond rubber ond plostic products,* between points in Cook County, IL, NJ, and those points in PA on and east of Interstate Hwy 81, on the one hand, and, on the other, points in the U.S.

MC 85469 (Sub-6), filed January 6, 1981. Applicant: LEWIE MONTGOMERY TRUCKING CO., West County Road South, P.O. Box 432, Odessa, TX 79760. Representative: George L. Fowler, 115 West Fifth St., Odessa, TX 79761. Transporting *general commodities,* (except classes A and B explosives), between points in AR, LA, TX, NM, OK, KS, NE, CO, SD, ND, WY, UT, MT, AZ, WA, ID, OR, NV, and CA.

MC 99398 (Sub-3), filed January 2, 1981. Applicant: CARRANO EXPRESS, INC., Middletown Ave., Northford, Ct., 06472. Representative: Richard H. Streeter, 1729 H St., Washington, DC 20006. Transporting *general commodities* (except classes A and B explosives), between points in CT and NJ, on the one hand, and, on the other, points in NH, ME, VT, and NY.

MC 115078 (Sub-8), filed January 5, 1981. Applicant: SINDALL TRANSPORT, INC., 102 N. Custer Ave., New Holland, PA 17557. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, N.W., Washington, DC 20005. Transporting *such commodities,*

as are dealt in or used by manufacturers and distributors of agricultural, industrial and construction machinery and equipment, between points in Lancaster and Mifflin Counties, PA, Platte, Hall and Dawson Counties, NE, Onondaga County, NY,Franklin County, OH, Mecklenburg County, NC, Johnson County, KS, St. Paul, MN, and Memphis, TN, on the one hand, and, on the other, the ports of entry on the international boundary line between the United States and Canada at points in ME.

MC 119639 (Sub-22), filed January 2, 1981. Applicant: INCO EXPRESS, INC., 3600 So. 124th St., Seattle, WA 98168. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. Transporting *such commodities*, as are dealt in by grocery and food business houses, (a) between points in WA, on the one hand, and, on the other, points in CA, OR, AZ, WA, and NV, and (b) between points in CA, AZ, and NV, on the one hand, and, on the other, points in OR.

MC 120978 (Sub-34), filed January 12, 1981. Applicant: MAYER TRUCK LINE, INC., 1203 South Riverside Dr., Jamestown, ND 58401. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *lumber and wood products*, between points in CA, ID, MT, OR, and WA, on the one hand, and on the other, points in IA, IL, MN, ND, SD, and WI.

MC 121589 (Sub-7), filed January 12, 1981. Applicant: N & W TRANSFER, INC., P.O. Box 188, Nehawka, NE 68413. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *iron and steel articles*, between points in Madison and Lancaster Counties, NE, Brown County, WI, Madison County, IL, and Chicago, IL, on the one hand, and, on the other, points in Adair County, IA.

MC 123048 (Sub-491), filed January 13, 1981. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st St., Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty St., Madison, WI 53703. Transporting *such commodities* as are dealt in or used by manufacturers and dealers of wood burning stoves, between points in the U.S.

MC 129529 (Sub-9), filed January 9, 1981. Applicant: THRUWAY MESSENGER SERVICE, INC., P.O. Box 11, Pearl River, NY 10965. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting *general commodities* (except classes A and B explosives) between points in Rockland, Orange, Dutchess, Putnam, Ulster, Westchester, Sullivan Counties, NY, and NJ, on the one hand, and, on the other, New York, NY and points in NJ. Condition: Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation of certificates in MC 129529 lead and Sub-7F.

MC 135078 (Sub-73), filed January 13, 1981. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *general commodities* (except classes A and B explosives), between points in AL, GA, IL, NC, and SC, on the one hand, and, on the other, points in IA, MO, and NE.

Volume No. OP5–29

Decided: January 22, 1981.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill. (Member Hill not participating.)

MC 136898 (Sub-9–M1), filed January 13, 1981. Applicant: BAKER TRANSPORT, INC., P.O. Box 668, Hartselle, AL 35650. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *paper and paper products, plastics, plastic articles, containers, metal ends, machinery parts, warp beams, pulpwood articles, cones, tubes, metal buildings and parts, lumber, forest products, adhesives, coatings, waste paper, pulpboard products, and materials, equipment and supplies* used in the manufacture, sale and distribution of the above commodities (except commodities in bulk, in tank vehicles), between points in the U.S., (except AK and HI) under continuing contract(s) with Sonoco Products Company, of Hartsville, SC and Paper Stock Dealers, Inc., of Statesville, NC.

Note.—The purpose of this application is to add a contracting shipper.

MC 145058, (Sub-2F), filed December 9, 1980. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St., NW., Washington, DC 20036. Transporting *such commodities* as are dealt in or used by manufacturers of drugs and medicines, between points in the U.S., under continuing contract(s) with Vicks Health Care Division of Richardson-Merrell, Inc., of Philadelphia, PA.

MC 145108 (Sub-38), filed January 14, 1981. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Terrence D. Jones, 2033 K St., NW., Washington, DC 20006. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Mid-Island Provision Company, Inc., of Mineola, NY.

MC 147028 (Sub-3), filed January 12, 1981. Applicant: MICHAEL L. GINEVRA, d.b.a. MICHAEL L. GINEVRA TRUCKING, 304 Kings Crown, San Antonio, TX 78233. Representative: Greg P. Stefflre, 261 South Figueroa, Los Angeles, CA 90012. Transporting *clay, concrete, glass or stone products*, between points in the U.S., under continuing contract(s) with Reikes Crisa Corp., of Omaha, NE.

MC 150339 (Sub-21F), filed December 8, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Rhodes Company.

MC 151649 (Sub-1), filed January 5, 1981. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, DesMoines, IA 50304. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Super Valu Stores, Inc., of Des Moines, IA.

MC 151839 (Sub-2F), filed December 23, 1980. Applicant: C & S TRUCKING, INC., 4717 West Military Hwy., Chesapeake, Va 23320. Representative: Blair P. Wakefield, Suite 1001, First and Merchants National Bank Bldg., Norfolk, VA 23510. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Norfolk and Suffolk, VA, on the one hand, and on the other, Richmond and Petersburg, VA, and points in NC and MD, restricted to traffic having a prior or subsequent movement by rail or waters.

MC 152008 (Sub-1), filed January 2, 1981. Applicant: CASE ENTERPRISES, INC., 322 Cedar Springs Rd., Athens, TN 37303. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting (1) *furniture and fixtures*, and (2) *textile mill products*, between points in the U.S., under continuing contract(s) with (a) Plastic Industries, Inc., of Athens, TN, (b) Athens Furniture, Inc., of Athens, TN, (c) James David, Inc., of St. Louis, MO, (d) Athens Manufacturing Co., of Athens,

TN, and (e) C & R Industries, of Etowah, TN.

MC 153519, filed January 6, 1981. Applicant: THOMAS' FREIGHT, 3814 White Ave., Baltimore, MD 21206. Representative: Martin E. Thomas (same address as applicant). Transporting (1) *rubber and plastic products* and (2) *metal products*, between points in the U.S., under continuing contract(s) with Specialty Plastics Co., Inc., of Owings Mills, MD, and W. R. McClayton & Co., Inc., of Baltimore, MD.

MC 153529F, filed December 22, 1980. Applicant: HERIBERTO CASTRO, d.b.a. HERIBERTO'S EXPRESS SERVICE, 464 Academy Street, South Orange, NJ 07079. Representative: Heriberto Castro (same address as applicant). Transporting *paper, paper articles and packaging materials*, between points in NJ and NY.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-3874 Filed 2-2-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, February 8, 1981, starting at 10:00 a.m., at the Ramada Inn, 901 North Fairfax Street, Alexandria, Virginia.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 81-3895 Filed 2-2-81; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-158-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, 1728 Koppers Building, Pittsburgh, Pennsylvania 15219, has filed a petition to modify the application of 30 CFR 75.1700 (barriers around oil and gas wells) to its Federal Nos. 1 and 2 and Joanne Mines located in Marion, Fairview, and Marion Counties, West Virginia respectively. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. The large majority of oil and gas wells were drilled and abandoned between 1890 and 1920 with oil and gas sands now nearly depleted.

3. As an alternative to establishing and maintaining barriers, petitioner proposes to:

(a) Plug the affected wells using a technique developed by the U.S. Bureau of Mines, U.S. Department of Energy, and the coal industry which involves the placing of plugs in the wellbore below the base of the Pittsburgh coalbed which will prevent any natural gas from entering the mine after the well is mined through;

(b) Perform various tests and surveys to determine the location of the wellbore in the coalbed;

(c) Plug the wells back to the base of the Pittsburgh coalbed using an expandable cement and fly-ash-gel water slurry;

(d) Mine through and remove that segment of the plug existing between the mine pavement and the roof;

(e) Instruct all personnel in the affected areas to proceed with caution when mining into and through the well support pillar, with diligent efforts made at all times to assure a gas-free atmosphere in the affected areas. The petitioner will cooperate with MSHA in sampling for gas immediately before, during and after mining through the well;

(f) Make methane examinations by qualified personnel using approved methane detection equipment at least once during each shift during development and/or retreat mining and record results on a fireboss dateboard placed in the area.

4. Petitioner states that the proposed alternative method will guarantee at all times the miners no less than the same meassure of protection as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 22, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3900 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-165-C]

Industrial Processing, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Industrial Processing, Inc., Post Office Drawer 517, Oneida, Tennessee 37841, has filed a petiion to modify the application of 30 CFR 77.1605(k) (berms and guards) to its Preparation Plant located in Anderson County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards shall be provided on the outer bank of elevated roadways.

2. Petitioner states that:

a. There is an existing haul road leading from the cleaning plant to a refuse area that is approximately three-fourths of a mile long;

b. The elevation on this road is 20 degrees and all drainage is controlled and checked;

c. The high wall abutting this road is stable, and the outer banks have vegetation growing on them;

d. There are four company-owned trucks that haul from petitioner's cleaning plant to the refuse area, and all four drivers are equipped with citizens band radios for their safety;

e. There are existing passing zones and safety signs along this road, and rock piles are located at various points along the haul roads; and

f. Visibility on this road is excellent, and petitioner has had no reported injuries on this haul road.

3. Petitioner states that the use or the safety devices and procedures outlined above will provide a greater degree of safety than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 22, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3899 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-151-C]

Lester and Simpson Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Lester and Simpson Coals, Inc., Route 2, Box 180-A, North Tazewell, Virginia 24630 has filed a petition to modify the application of 30 CFR 75.1100-2(b) (quantity and location of firefighting equipment) to its mine located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that waterlines be installed parallel to the entire length of belt conveyors and equipped with firehose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces.

2. As an alternate method to complying with the standard, petitioner proposes to:

a. Install a permanent stopping at the mouth of the drift with a door in the stopping;

b. Have a miner patrol the belt daily;

c. Locate ten-pound fire extinguishers with 250 pounds of rock dust every 250 feet in the belt;

d. Install and maintain a Pyott-Boone fire sensing unit the entire length of the belt; and

e. Supply a portable 600 gallon capacity water car provided with a pump and 500 feet of fire hose.

3. Petitioner states that the proposed alternate method outlined above will provide the same measure of protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 23, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3900 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-163-C]

Monarch Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Monarch Coals, Inc., P.O. Drawer 517, Oneida, Tennessee 37841 has filed a petition to modify the application of 30 CFR, 77.1605(k) (berms and guards) to its Mine No. 1 located in Anderson County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. Petitioner states that:

a. The haul road is approximately three-fourths of a mile long;

b. The road is elevated with good drainage, and the high wall abutting the haul road is stable, with vegetation growing on the outer banks;

c. Visibility on the haul road is excellent and no accidents have been reported;

d. The trucks driving to and from the mine site are equipped with citizens band radios for the drivers' safety.

3. Petitioner states that the use of the safety devices and procedures outlined above will provide a greater degree of safety than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 26, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3905 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-155-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, P.O. Box 235, St. Louis, Missouri 63166 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Walton Creek Mine located in Ohio County, Kentucky. The petition is filed under section 101 (c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner is operating in a coal seam that ranges from 41 to 45 inches in height.

3. Petitioner states that installation of cabs or canopies on the mine's loader, cutter, drill, roof bolter, shuttle car and scoop would result in a diminution of safety to the miners affected because:

a. The equipment operator's vision is reduced by the canopy, endangering both the equipment operator and other nearby miners.

b. The cabs or canopies limits the space provided for the equipment operator and severly restricts leg and arm movement, increasing operator fatigue and the likeliness of an accident;

c. The cab or canopy may come in contact with the roof, destroying necessary roof support;

d. The cab or canopy may come in contact with line curtains, which can destroy or pull them down, affecting mine ventilation.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 22, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3901 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-162-C]

River Basin Coals, Inc.; Petition for Modification of Application of Mandatory Safety Standard

River Basin Coals, Inc., P.O. Drawer 517, Oneida, Tennessee 37841, has filed a petition to modify the application of 30 CFR 77.1605(k) (berms and guards) to its Mine No. 1 located in Anderson County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. Petitioner states that:

a. The existing haul road is approximately one-fourth of a mile long and is elevated with drainage-entering ditches. These ditches are maintained and controlled through large culverts which drain into a large sedimentation pond.

b. Safety signs have been posted on this road, controlling movement and speed;

c. Rock piles are kept at the mine site and are available upon a few seconds' notice;

d. No accidents have been reported and visibility on the road is excellent.

3. Petitioner states that the use of the safety devices and procedures outlined above will provide a greater degree of safety than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room, 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 22, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3897 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-170-C]

Sandy Fork Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sandy Fork Mining Company, Inc., Route 4, Box 30, Beverly, Kentucky 40913, has filed a petition to modify the application of 30 CFR 77.1605(k) (berms and guards) to its No. 6 Mine located in Clay County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be installed on the outer bank of elevated roadways.

2. Petitioner states that installation of berms on the outer banks of the roadway would result in a diminution of safety to the miners because:

a. More than half of the haulage roads are county and state roads which do not have berms or guards and are more hazardous than the petitioner's roads;

b. Berms would prevent the removal of snow and ice from the roadways, causing the road to deteriorate;

c. Run-off water would channel down the roadway washing gravel and dirt from the road into settling ponds and silt ponds.

3. As an alternate method, petitioner proposes to:

a. Train all equipment operators in the use of haulage equipment and the safety of vehicles on haulage roads;

b. Insure that all haulage vehicles have original manufacturer's brakes, engine or Jacob brakes, and an emergency (parking) braking system;

c. Keep roadway surfaces free of debris, excessive water, snow and ice and as free as practicable of small ditches (washboard effects);

d. Post warning signs designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one lane of traffic. Stop signs shall be posted where one road intersects another giving main haulage traffic the right of way, and signs shall be posted designating passing points;

e. Use a traffic system for these roads requiring that loaded trucks have the right of way on the highwall side of roads regardless of their direction of travel; and

f. Store adequate supplies of crushed stone or other suitable material at strategic locations along the haulage roads for use when the roads become slippery.

4. Petitioner states that the alternate method outlined above will provide a greater degree of safety to the miners affected than that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3898 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-182-C]

Shannopin Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Shannopin Mining Company, P.O. Box 364, Bobtown, Pennsylvania 15315 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Shannopin Mine located in Greene County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return airways be examined for hazardous conditions on a weekly basis.

2. The airways were developed prior to March 30, 1970. These airways have deteriorated due to massive roof falls, making the airways hazardous for inspection travel.

3. Petitioner states that rehabilitation of the airways would expose miners to undue hazards, resulting in a diminution of safety.

4. As an alternate method of compliance, petitioner proposes to establish specified air monitoring stations to examine for methane and the quantity of air flow. The results will be recorded in a date book at each location. Should any hazardous conditions be found, appropriate measures will be taken to alleviate these conditions.

5. Petitioner states that the proposed alternate method will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These

comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3903 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-109-M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, P.O. Box 1080, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.19-72 (cages and skips, enclosures) to its Sunshine Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages and skips be enclosed to protect personnel.

2. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because:

a. If the trailer cages were further enclosed, shaft repair crews would be forced to do their work from the crosshead. This work is now performed from the trailer cage;

b. Installation of removeable components or bonnets has been tried and they present a hazard because they can break loose and fall into the trailer deck, which could cause injury and/or loss of life.

3. For these reasons, petitioner requests a modification of the Standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 22, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc.81-3896 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-157-C]

Webster County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Webster County Coal Corporation, Rural Route 3, Clay, Kentucky 42404 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Retikl Mine located in Henderson County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follow:

1. The petition concerns the requirement that examinations of the intake and return air courses in their entirety be made weekly.

2. Petitioner states that because of adverse roof conditions, weekly examinations of the return air courses would result in a diminution of safety to the miners affected.

3. As an alternate method, petitioner proposes to:

a. Install and utilize an approved methane monitor to continuously sample the return air;

b. Install an audible alarm device in conjunction with the methane monitor which will alert mine personnel of any methane content above one percent;

c. Maintain the monitoring and signalling device in accordance with 30 CFR 75.313-1;

d. Establish specified air measurement stations and maintain these stations and their approaches in a safe condition at all times, recording the results of examinations in a book at each location.

4. Petitioner states that the proposed alternate method outlined above will provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 5, 1981. Copies of the petition are available for inspection at that address.

Dated: January 23, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-3904 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-11,363]

Allied Chemical Corp., Automotive Products Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 20, 1980 in response to a petition received on September 15, 1980 which was filed on behalf of the workers at the Mount Clemens, Michigan administrative offices of the Automotive Products Division of Allied Chemical Corporation.

An active certification applicable to the petitioning group of workers remains in effect (TA-W-9035). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3909 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,064]

Bishop Products, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a petition received on August 25, 1980 which was filed on behalf of the workers at Bishop Products, Inc., Au Gres, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently further investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3912 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,154]

Cannelton Industries, Inc., Kanawha Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was

initiated on October 6, 1980 in response to a petition received on September 25, 1980 which was filed by the United Mine Workers of America on behalf of workers at Cannelton Industries, Incorporated, Kanawha Division, Cannelton, West Virginia.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-10,852). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3911 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,529]

Gene Bell Chevrolet Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1980 in response to a petition received on September 18, 1980 which was filed on behalf of the workers at Gene Bell Chevrolet Inc., Detroit, Michigan.

A negative determination applicable to the petitioning group of workers was issued on August 29, 1980 (TA-W-9646). No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3906 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9955]

McGregor Sportswear; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 1980 in response to a worker petition received on June 17, 1980 which was filed on behalf of workers at McGregor Sportswear. The workers are regional sales representatives.

All sales representatives are covered under existing certifications issued on March 16, 1979 (TA-W-4702A, 4702B) and on March 10, 1980 (TA-W-6764). Those certifications cover workers at the Dover, New Jersey and New York, New York Corporate Offices of McGregor-Doniger, Incorporated and the Berwick, Pennsylvania distribution center of McGregor Sportswear (formerly McGregor-Doniger, Incorporated). Those certifications remain in effect until March 16, 1981 (TA-W-4702A, 4702B) and March 10, 1982 (TA-W-6764) two years from their respective dates of issuance. Since the regional sales representatives who filed the present petition are eligible to apply for adjustment assistance under existing certifications, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed in Washington, D.C., this 22nd day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3914 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,298 and 11,299]

RPM Products, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 1980 in response to a petition received on October 10, 1980 which was filed on behalf of the workers at the Roseville and Croswell, Michigan plants of RPM Products, Incorporated.

A negative determination applicable to the petitioning group of workers was issued on November 28, 1980 (TA-W-7862 and 7862A). No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3910 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,896]

Selastomer Detroit, Incorp.; Termination to Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 15, 1980 in response to a petition received on July 25, 1980 which was filed by the United Mine Workers of America on behalf of workers at Selastomer Detroit, Incorporated, Farmington, Michigan.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-10,255). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3908 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,855]

United Technoiogies Corp.; Automotive Products Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 8, 1980 in response to a petition received on December 1, 1980 which was filed on behalf of the workers at the Lancaster, Ohio plant of the Automotive Products Division of the United Technologies Corporation.

A negative determination applicable to the petitioning group of workers was issued on November 19, 1980 (TA-W-9573). No new information is evident which would result in a reversal of the Department's previous determination. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3913 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,080]

White Motor Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 29, 1980 in response to a petition received on September 22, 1980 which was filed on behalf of the workers at the Mount Clemens, Michigan administrative offices of the Cleveland, Ohio facility of White Motor Corporation.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-10,920). Consequently further investigation in this case would

serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C., this 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-3907 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Thursday, February 19, 1981, in Room N-3437C, U.S. Department of Labor, Third and Constitution Avenue, N.W., Washington, D.C.

The purpose of the meeting is to install new members, to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Administration of Oath to New Members.
2. Department of Labor Progress Report.
3. Council Work Group Reports:
Legislative Work Group
Reporting, Disclosure and Recordkeeping Work Group
Communications Work Group
4. Statements from the Public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before February 18, 1981, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S-4522, Third and Constitution Avenue, N.W., Washington, D.C. 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523-8753.

Signed at Washington, D.C., this 29th day of January 1981.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 81-3919 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-8]

Class Exemption Covering Certain Short-Term Investments; Correction

Section III (H)(1) of Prohibited Transaction Exemption 81-8 (46 FR 7511, 7518, January 23, 1981) (covering certain short-term investments) is hereby corrected by adding in the thirteenth line thereof the words "or other instruments" immediately following the word "securities".

Dated: January 28, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-3920 Filed 2-2-81; 8:45 am]

BILLING CODE 4510-29-M

Proposed Class Exemption To Permit Payment of Compensation to Plan Fiduciaries for the Provision of Securities Lending Services

Correction

In FR Doc. 81-2584 appearing on page 7518 in the issue of Friday, January 23, 1981, on page 7519, third column, fifth line of the paragraph numbered (1), "of" should read "or").

BILLING CODE 1505-01-M

[Prohibited Transaction Exemption 81-6]

Class Exemption To Permit Certain Loans of Securities by Employee Benefit Plans

Correction

In FR Doc. 81-2606 appearing on page 7527 in the issue of Friday, January 23, 1981, make the following changes.

(1) On page 7528, first column, third paragraph, thirteenth line, "request" should read "requested".

(2) On page 7532, third column, last paragraph, eighth line from the bottom, insert a period after "1", and insert the following thereafter:

"Effective January 23, 1981 the restrictions of section 406(a)(1) (A) through (D) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the lending of securities that are assets of an employee benefit plan to a broker-dealer registered under the Securities Exchange Act of 1934, or to a bank, if:"

Also, place a "1" in front of "Neither".

BILLING CODE 1505-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (81-3)]

NASA Advisory Council, Historical Advisory Committee; Meeting

Correction

In FR Doc. 81-1072 appearing on page 3097 in the issue of Tuesday, January 13, 1981, second column, first full paragraph, fifteenth line, insert the following after "the": "Candidates and other individuals involved. Since this".

BILLING CODE 1505-01-M

[Notice (81-12)]

NASA Advisory Council (NAC); Aeronautics Advisory Committee (AAC); Informal Advisory Subcommittee on Rotorcraft Technology; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of committee: NAC AAC Informal Advisory Subcommittee on Rotorcraft Technology.
Date and time: February 25, 1981, 9:00 a.m. to 5:00 p.m., February 26, 1981, 8:15 a.m. to 4:30 p.m., February 27, 1981, 8:30 a.m. to 11:30 a.m.
Address: NASA Ames Research Center, Building 200, Room 217, Moffett Field, CA.
Type of meeting: Open.
Agenda:

February 25, 1981

9:00 a.m.—Summary of NASA/Ames FY 1981-1982 Rotorcraft Research and Technology Program
5:00 p.m.—Adjourn

February 26, 1981

8:15 a.m.—Summary of NASA/Langley FY 1981-1982 Rotorcraft Research and Technology Program
10:00 a.m.—Summary of NASA/Lewis FY 1981-1982 Rotorcraft Research and Technology Program
11:00 a.m.—Rotorcraft Program Planning for FY 1983
1:00 p.m.—Discussion of NASA Rotorcraft Research and Technology Plans
4:30 p.m.—Adjourn

February 27, 1981

8:30 a.m.—Subcommittee Recommedations on NASA Rotorcraft Program Plans
11:00 a.m.—Areas for Possible Future Discussion
11:30 a.m.—Adjourn

FOR FURTHER INFORMATION CONTACT:

Mr. John F. Ward, Executive Secretary of the Subcommittee, National Aeronautics and Space Administration, Code RJL-2, Washington, DC 20546 (202/755-2375).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Rotorcraft Technology was established to assist the NASA in assessing the current adequacy of rotorcraft technology and recommend actions to reduce defiiencies through modification of the planned NASA research and technology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion system components, flight control, and avionics. The Subcommittee, chaired by Mr. Troy M. Gaffey, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the Subcommittee members and participants).

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

January 27, 1981.

[FR Doc. 81-3695 Filed 2-2-81; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted in Washington, D.C. on February 19-20, 1981.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, N.W., Washington, D.C. A portion of the morning and afternoon sessions on February 19 and the afternoon session on February 20, 1981 will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sections on February 19, 1981 follows:

(Open to the public)

8:30-9:00 Coffee for Council Members in Chairman's Office

9:00-10:30 Committee Meetings—Policy Discussion

Education Programs—Room 807

Fellowship Programs—Room 314

Planning and Special Programs—Room 1025

Public Programs and State Programs (to discuss policy affecting Public Programs only)—1st Floor

Research Programs—Room 1134

1:00-2:30 Public Programs and State Programs (to discuss policy affecting State Programs only)—1st Floor

*10:30 to Adjourn Consideration of specific applications, (Closed to the public for the reasons stated above).

*From 10:30-1:00 and from 2:30-Adjournment The Committee for Public Programs and State Programs will be occupied with the consideration of specific applications. During these periods the meeting will be closed to the public for the reasons stated above.

The morning session on February 20, 1981 will convene at 8:30 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows: (Coffee for Staff and Council Attending Meeting will be served from 8:30 a.m.-9:00 a.m.)

Minutes of the Previous Meeting

Reports

A. Introductory Remarks

B. Introduction of New Staff

C. Chairman's Grants and Grants Departing from Council Recommendation

D. Application Report

E. Gifts and Matching Report

F. FY 1981 Apropriations

G. FY 1982 Appropriation Request

H. Reauthorization

I. Selected Project Evaluations

J. Committee Reports on Policy and General Matters

a. Fellowship Programs

b. Planning and Assessment Studies

c. Special Programs

d. Research Programs

e. Education Programs

f. Public Programs

g. State Programs

K. Education Programs—Special Discussion

The remainder of the proposed meeting will be given to the consideration of specific applications and to selection of the Jefferson Lecturer for 1982, (closed to the public for the reasons stated above).

It is suggested that those desiring more specific information contract the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer

[FR Doc. 81-3735 Filed 2-2-81; 8:45 am]

BILLING CODE 7536-01-M

Special Projects Panel (Interdisciplinary Arts Projects); Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Special Projects Panel (Interdisciplinary Arts Projects) to the National Council on the Arts will be held on February 19-20, 1981, in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506 from 9:00 a.m.—5:30 p.m.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4) (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: January 27, 1981.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-3693 Filed 2-2-81; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Sculpture Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Sculpture Section) to the National Council on the Arts will be held on February 19–22, 1981, from 9:00 a.m.–5:30 p.m. on the first floor of the Counsel West Building of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 10506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the energy by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: January 27, 1981.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81–3894 Filed 2–2–81; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

NSF Advisory Council, Task Group No. 13; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Task Group No. 13 of the NSF Advisory Council.
Place: Room 520, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Date: Thursday, February 26, 1981.
Time: 9:00 a.m. till 5:00 p.m.
Type of meeting: Open.
Contact person: Ms. Jeanne Hudson, Executive Secretary of the NSF Advisory Council, National Science Foundation. Room 518, 1800 G Street, N.W., Washington, D.C. 20550. Telephone: 202/537–9433.
Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.
Summary minutes: May be obtained from the contact person at above stated address.
Agenda: The Task Group is asked to study the question of whether the transfer of technology for appropriate use by governments, industry, institutions, organizations and groups is as important as the research that provides the basis for technological advance and the development of applications.

Dated: January 29, 1981.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 81–3923 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Earth Sciences; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences.
Date: February 20, 1981.
Time: 9:00 a.m.
Place: The National Science Foundation, Room 642, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357–7958.
Purpose of committee: To provide advice and recommendations concerning support for research in the Earth Sciences.
Summary minutes: May be obtained from the contact person at the above address.
Agenda: Reorganization of the Division of Earth Sciences and the Advisory Committee, and Long range plans for the Division of Earth Sciences.

M. Rebecca Winkler,

Committee Management Coordinator.

January 29, 1980.

[FR Doc. 81–3917 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Cellular Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, The National Science Foundation announces the following meeting:

Name: Subcommittee on Cellular Physiology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 25, 26, 27, 1981—starting at 8:30 a.m. to 5:00 p.m.
Place: Room 325, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Barbara K. Zain, Assistant Program Director, Cellular Physiology Program, Room 332, National Science Foundation, Washington, D.C. 20550: Telephone (202) 357–7377.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Cellular Physiology.
Agenda: To review and evaluate research proposals as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 29, 1981.

M. R. Winkler,

Committee Monogement Coordinator.

[FR Doc. 81–3922 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: February 26, 27, 28, 1981—starting at 9:00 a.m.
Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program Director, Room 332–E, National Science Foundation, Washington, D.C. 20550, telephone 202/357–7989
Purpose of subcommittee: To provide advice and recommendations concerning support of research in developmental biology
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Managment Officer was delegated the authority to make determinations by the Director, NSF, July 6, 1979.

Dated: January 29, 1981.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 81–3924 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory for Physiology, Cellular, and Molecular Biology; Subcommittee on Molecular Biology, Group B; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group B of the advisory committee for Physiology, Cellular and Molecular Biology.
Date and time: February 19 & 20, 1981; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.
Type of meeting: Closed.
Contact person: Dr. E. Moudrianakis, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, DC 20550, Telephone: (202) 357–7945.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters were within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 29, 1981.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 81–3915 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Social and Economic Science, Subcommittee on Geography and Regional Science; Meeting

In accordance with the Federal Advisory Committee Act, is amended Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Geography and Regional Science of the Advisory Committee for Social and Economic Science
Date and time: February 27, 1981; 8:30 a.m.–5:00 p.m.
Place: Room 628, National Science Foundation, 18th and G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Barry M. Moriarty, Program Director, Geography and Regional Science, Room 312, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7326.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Geography and Regional Science.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals asociated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92.436. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 29, 1981.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 81–3918 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee on Special Research Equipment, Chemistry Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Special Research Equipment (2-year and 4-year colleges) (Chemistry Subcommittee).
Date and time: February 23–24, 1981—9:00 a.m. to 5:00 p.m.
Place: Room 421, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Howard H. Hines, Program Director, Room 428, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–9615.
Purpose of committee: To evaluate research equipment proposals.
Agenda: To review and evaluate research equipment proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature. Including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: January 29, 1981.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 81–3918 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Minority Programs in Science Education; Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is hereby determined that the renewal of the Advisory Committee for Minority Programs in Science Education is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, GSA, as required by the Federal Advisory Committee Act and other applicable regulations.

Authority for this advisory committee shall expire on January 31, 1982, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

Dated: January 29, 1981.

Donald N. Langenberg,

Acting Director.

[FR Doc. 81–3926 Filed 2–2–81; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Science Education, Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is

hereby determined that the renewal of the Advisory Committee for Science Education is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, GSA, as required by the Federal Advisory Committee Act and other applicable regulations.

Authority for this advisory committee shall expire on January 31, 1983, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

Dated: January 29, 1981.

Donald N. Langenberg,

Acting Director.

[FR Doc. 81-3925 Filed 2-2-81, 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to add an operability requirement for the Boran Injection Tank (BIT) heat tracing channels consistent with other Technical Specification requirements for similar systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 3, 1980, (2) Amendment No. 55 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 16th day of January 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1. Division of Licensing.

[FR Doc. 81-3757 Filed 2-2-81, 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237 and 50-249]

Commonwealth Edison Co.; Issuance of Amendments and Granting of Relief From ASME Section XI—Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Provisional Operating License No. DPR-19 and Amendment No. 47 to Facility Operating License No. DPR-25, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Units Nos. 2 and 3, respectively, located in Grundy County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to replace the existing inservice inspection requirements with an inservice inspection program that meets the requirements of 10 CFR 50.55a(g).

By letter dated December 31, 1980, as supported by the related Safety Evaluation, the Commission has also granted relief from certain requirements to the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the licensee. The relief relates to the inservice inspection program for Dresden Station Unit Nos. 2 and 3. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The application for amendments and requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments and letter and Safety Evaluation granting relief. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and granting of the relief will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these actions.

For further details with respect to these actions, see (1) the application for amendments dated July 31, 1978, and supplements thereto dated September 11, 1978, January 12, 1979, and June 26, 1979, (2) Amendment No. 54 to Provisional Operating License No. DPR-19 and Amendment No. 47 to Facility Operating License No. DPR-25, including the Commission's letter of transmittal dated December 31, 1980, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of December, 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-3748 Filed 2-2-81, 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-39, and Amendment No. 56 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to allow the last irradiation cycle of four high burnup fuel assemblies, previously authorized to be performed in Zion Unit 2, to be performed instead in Zion Unit 1.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated December 3, 1980, (2) Amendment Nos. 59 and 56 to License Nos. DPR-39 and DPR-48, and (3) our letter to the licensee dated December 31, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 31st day of December 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1. Division of Licensing.

[FR Doc. 81-3755 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-39, and Amendment No. 57 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments delete surveillance requirements for valves no longer functional, corrects typographical errors, revises surveillance requirements for a portion of the reactor trip protection system to be consistent with its use, and removes effluent discharge pH requirements which were superfluous to the Clean Water Act (Section 402, NPDES Permit).

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated October 31, 1977, December 22, 1978, and October 24, 1980, (2) Amendment Nos. 60 and 57 to License Nos. DPR-39 and DPR-48, and (3) the Commission's letter to the licensee dated January 14, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of January 1981.

For The Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-3760 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-39, and Amendment No. 58 to Facility Operating License No. DPR-48 issued to the Commonwealth Edison Company (the licensee), which revised the licenses for operation of Zion Station, Units 1 and 2 (the facilities) located in Zion, Illinois. The amendments are effective as of the date of issuance.

The amendments combine license conditions for the Security Plan, Safeguards Contingency Plan, and add a condition to include the Commission-approved Guard Training and Qualification Plan. The amendments also remove license conditions on advance notification of heavy loads movement, implementation of a corrosion surveillance program for the spent fuel pool racks, and *in situ* neutron attenuation tests to verify boron in the racks in response to the decision of the Atomic Safety and Licensing Appeal Board decision (ALAP-616) dated October 2, 1980.

The licensee's filing complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant evironmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental

impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filing dated August 16, 1979, as revised August 11, 1980, is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) the licensee's filing dated August 16, 1979, as revised August 11, 1980, (2) Amendment Nos. 61 and 58 to License Nos. DPR–39 and DPR–48, (3) the Commission's letter to the licensee dated January 15, 1981, and (4) the decision of the Atomic Safety and Licensing Appeal Board (ALAP–616) dated October 2, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of January 1981.

For The Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1 Division of Licensing

[FR Doc. 81–3758 Filed 2–2–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–409]

Dairyland Power Cooperative; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Provisional Operating License No. DPR–45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the LaCrosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment modifies the provisions of the Technical Specifications to incorporate Recirculation Pump Trip (RPT) System requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 12, 1980, (2) Amendment No. 22 to License No. DPR–45, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin 54601. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of January, 1981.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5 Division of Licensing.

[FR Doc. 81–3756 Filed 2–2–81; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FP 806–6 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Design of an Independent Spent Fuel Storage Installation (Water Basin Type)" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide guidance acceptable to the NRC staff for use in the design of an independent spent fuel storage installation of the water basin type that will comply with the Commission's regulations.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 12, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 12th day of January 1981.

For the Nuclear Regulartory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 81–3746 Filed 2–2–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co., Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-31, and Amendment No. 53 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments delete the fuel resident time limit from the Technical Specifications, Appendix A to the licenses. In addition, the Table of Contents for the Technical Specifications has been reissued to incorporate changes made by the Order for Modification of Licenses dated October 24, 1980 and to correct typographical errors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated July 1962.

For further details with respect to this action, see (1) the application for amendments dated January 31, 1979, as supplemented on September 26, 1980, (2) Amendment Nos. 62 and 53 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of December 1980.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-3753 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-482-OL]

Kansas Gas & Electric Co., et al.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Kansas Gas and Electric Company, et al.

(Wolf Creek Generating Station, Unit No. 1) Construction Permit No. CPPR-147

This action is in reference to a notice published by the Commission on December 18, 1980, in the Federal Register (45 FR 83360-61) entitled, "Receipt of Application for Facility Operating License; Availability of Applicant's Environmental Report, Consideration of Issuance of Facility Operating License, and Notice of Opportunity for Hearing".

This Board is comprised of the following Administrative Judges:

James P. Gleason, Esquire, Chairman, 513 Gilmoure Drive, Silver Spring, Maryland 20901.

Dr. George C. Anderson, Department of Oceanography, University of Washington, Seattle, Washington 98195.

Dr. J. Venn Leeds, 10807 Atwell, Houston, Texas 77096.

Issued at Bethesda, Maryland, this 23d day of January 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-3762 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-548]

Omaha Public Power District; Withdrawal of Application for Construction Permit

By letter, Dated November 14, 1980, Omaha Public Power District filed a request to withdraw its application to construct and operate the Fort Calhoun Station, Unit 2. The site was located near the Village of Fort Calhoun in Washington County, Nebraska. In it Order, dated December 22, 1980, the NRC Atomic Safety and Licensing Board granted the applicant's request to terminate the construction permit proceeding.

Accordingly, the Commission considers the Fort Calhoun Station, Unit 2 construction permit application to be withdrawn and the corresponding licensing proceeding to be terminated.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. 20555. In addition, correspondence concerning this application will be maintained for at least the next six months at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Dated at Bethesda, Maryland this 12th day of January 1981.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 81-3751 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised technical specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment revised the Technical Specifications in several areas to make them more consistent with the Standard Technical Specifications, revises the Technical Specifications to assure at least 23 feet of water over the top of the reactor pressure vessel flange during movement of fuel assemblies, revises the Technical Specification to require

that two valves in the miniflow line for the Residual Heat Removal Pumps be kept open, and revises the license condition dealing with steam generator inspection.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 7, 1979, November 7, 1980 and two applications dated October 31, 1980, (2) Amendment No. 34 to License No. DPR–64, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15 day of January 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Divsion of Licensing.

[FR Doc. 81–3759 Filed 2–2–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–272]

Public Service Electric and Gas Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR–70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Appendices A and B Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications for this unit to reflect changes in the organization that operates and supports the operation of both Unit Nos. 1 and 2. Consistent "Administrative Controls" were also made to the Appendix B Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 20, 1980, (2) Amendment No. 31 to License No. DPR–70, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of January 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81–3752 Filed 2–2–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–259, 50–260, and 50–296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR–33, Amendment No. 61 to Facility Operating License No. DPR–52, and Amendment No. 36 to Facility Operating License No. DPR–68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Environmental Technical Specifications (Appendix B) to delete the fish impingement monitoring program.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendments dated March 1, 1979, (2) Amendment No. 65 to License No. DPR–33, Amendment No. 61 to License No. DPR–52, and Amendment No. 36 to License No. DPR–68, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-3750 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259-OLA, 50-260-OLA and 50-296-OLA]

Tennessee Valley Authority; Establishment of Atomic Safety and Licensing Board to Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Tennessee Valley Authority

(Browns Ferry Nuclear Plant, Unit Nos. 1, 2, and 3)

Operating License Nos. DPR-33, DPR-52 and DPR-68

This Board is being constituted pursuant to a notice published by the Commission on December 11, 1980 in the Federal Register (45 FR 81697-98) entitled, "Consideration of Amendments to Facility Operating Licenses".

This Board is comprised of the following Administrative Judges:

Herbert Grossman, Esquire, Chairman, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Mrs. Elizabeth B. Johnson, Oak Ridge National Laboratory, P.O. Box X, Building 3500, Oak Ridge, Tennessee 37830.

Dr. Quentin J. Stober, Fisheries Research Institute, University of Washington, Seattle, Washington 98195.

Issued at Bethesda, Maryland, this 26th day of January 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-3761 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio.

This amendment was authorized by phone on November 17, 1980 and was confirmed by letter dated November 20, 1980. On November 17, 1980 it was discovered that the pressure transmitters for the containment high pressure channels have not been tested on a monthly basis, as required by the Technical Specifications. As a result, the Technical Specifications required that all four pressure transmitters be declared inoperable and that the plant be in hot standby within one hour and in cold shutdown within 30 hours. The amendment revised Technical Specification Table 4.3-2 so that plant shutdown was not required within one hour, even though the pressure transmitters for the containment high pressure channels have not been tested on a monthly basis. The change to the Technical Specifications applies only to the first test on each instrument following the first refueling outage. The amendment was issued on an expedited basis since maintaining the plant at steady state conditions at power during the full completion of the tests on the pressure transmitters was preferable to putting the plant through a rapid transient and shutdown as required by the Technical Specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the request for amendment dated November 18, 1980, (2) the Commission's letter to the licensee dated November 20, 1980, (3) Amendment No. 35 to License No. NPF-3, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of January 1981.

For The Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-3749 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation which revises the Technical Specifications for operation of the Vermont Yankee Nuclear Power Station located in Windham County, Vermont. The amendment is effective as of the date of its issuance.

This amendment changes the Technical Specifications to revise the pressure-temperature limitations in order to comply with 10 CFR Part 50, Appendix G, "Fracture Toughness Requirements."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendemt. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any signficant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 5, 1980, (2) Amendment No. 62 to License No DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717, H Street, NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 14th day of January 1981.

For The Nuclear Regulatory Commission.

Thomas A. Ippolito,,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-3754 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised Technical Specifications for operations for the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to clarify the use of the term OPERABLE as it applies to the single failure criterion for safety systems in power reactors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 20, 1980, (Proposed Change No. 169), (2) Amendment No. 62 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of January 1981.

For The Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-3747 Filed 2-2-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-7140]

Cenvill Communities, Inc. Common Stock, $.01 Par Value; Application To Withdraw From Listing and Registration

January 27, 1981.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. "Amex".

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Cenvill Communities, Inc. the "Company" is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on January 5, 1981, the Company is also listed and registered on the New York Stock Exchange "NYSE". The Company has determined that in view of the listing of the Company's common stock on the NYSE, it is advisable for the Company to withdraw from listing on the Amex.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before February 18, 1981, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-3727 Filed 2-2-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17485; File No. SR-CBOE-1980-28]

Chicago Board Options Exchange, Incorp.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exhange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 29, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

Additions are italicized and deletions are bracketed.

Obligations of Market-Makers

Rule 8.7. No change.

Interpretations and Policies:

.01 through .04 No change.

.05 When unusual trading conditions exist and in the interest of maintaining a fair and orderly market, two Floor Officials may waive the requirements of Rule 8.7(b)(i) in those option series 10 or more points in the money to allow Market-Makers to make bid/ask differentials as wide as the quotation in the primary market as indicated by the Exchange's floor-support screens. Such a waiver shall not automatically carry over from one day to the next.

SRO's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Because of the derivative nature of stock options, Market-Makers should not have the burden of making markets pursuant to Rule 8.7(b)(i) when the specialist in the underlying security is making wider markets. The proposed addition to Rule 8.7 would help to solve this problem. This new interpretation and policy includes safeguards: there must be unusual trading conditions; a waiver must be in the interest of maintaining a fair and orderly market; an option series must be 10 or more points in the money; and a waiver shall not automatically carry over to the following business day.

The basis under the Securities Exchange Act of 1934 for the proposed rule change is section 6(b)(5), in that the change would promote just and equitable principles of trade and thereby protect the public interest.

Although comments were solicited from members by means of a special mailing to the membership, no comments were received.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, Securities and Exchange Commission, 1100 L Street NW., Washington, D.C. Copies of such filing will also 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 referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

January 26, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-3728 Filed 2-2-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-10907]

General American Transportation Corp.; Application and Opportunity for Hearing

January 28, 1981.

Notice is hereby given that General American Transportation Corporation (the "Applicant") has filed an application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Manufacturers Hanover Trust Company ("Manufacturers") under two existing indentures and under a new indenture to be qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as trustee under the existing indentures and under the indenture to be qualified.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. Applicant was incorporated in June 1975 as a wholly owned subsidiary of GATX Corporation. On July 1, 1975, in connection with the restructuring of GATX Corporation, Applicant was assigned the rights of GATX Corporation under its 17 then existing Equipment Trust Agreements (including the Series 60 and 63 Equipment Trust Agreements) and assumed the obligations of GATX Corporation thereunder. Since July 1, 1975 four equipment trusts have been fully paid and terminated, and Applicant has issued equipment trust certificates under its Series 73, 74, 75 and 76 Equipment Trust Agreements. The Applicant is not in Default under any existing equipment trusts.

2. Applicant intends to file with the Commission a Registration Statement and Trust Indenture covering a proposed equipment trust to be designated as General American Transportation Corporation Equipment Trust, Series 77, under which equipment trust certificates are expected to be issued.

3. Applicant seeks to appoint Manufacturers to act as trustee under the Series 77 Indenture.

4. Manfacturers presently is acting as trustee under two Equipment Trust Agreements for Applicant: Equipment Trusts Series 60 and 63. The Series 60 Indenture was registered under the Act of December 14, 1962 and of the $35,000,000 principal amount of Series 60 Certificates issued, $3,466,000 remain outstanding. The Series 63 Indenture was registered under the Act on May 11, 1966, and of the $40,000,000 principal amount of Series 63 Certificates issued, $11,935,000 remain outstanding.

5. The Series 60 and 63 equipment trust certificates are, and the Series 77 Certificates will be, secured by separate lots of identified railroad cars. Thus, the existence of the other trusteeships should in no way inhibit or discourage Manufacturer's actions.

6. By Orders with regard to previous filings of applicant having similar relevant facts and issues, the Commission found that the trusteeship of a single bank under more than one of Applicant's equipment trust indentures was not so likely to involve a material conflict of interest as to require disqualification.

Applicant has waived notice of hearing, hearing on the issues raised by the application and all rights to specify procedures under Rule 8(b) of the Commission's Rule of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application, which is a public document on file in the office of the Commission's Public

Reference Section, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than February 24, 1981 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact on law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-3729 Filed 2-2-81; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 27, 1981.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rules 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Dyco Petroleum Corp.
Common Stock, $1 Par Value (Filed No. 7-5849)

Sysco Corporation
Common Stock, $1 Par Value (File No. 7-5850)

Thompson Medical Company
Common Stock, $.10 Par Value (File No. 7-5851)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 18, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-3730 Filed 2-2-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17493; File No. SR-NSCC-81-1]

National Securities Clearing Corporation; Proposed Rule Change

Relating to member staffing on nonclearing Days.

Comments requested on or before February 24, 1981.

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 January 21, 1981, the National Securities Clearing Corporation filed with the Securities and Exchange Commission the proposed rule 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

Text of Proposed Rule Change

Add a new Section to Rule 5 as follows:

Sec. 4. The Corporation may, in its discretion, require Settling Members to provide appropriate staff in their offices during specified hours on non-clearing days when such is deemed necessary by the Corporation to insure the integrity of its systems and/or for the protection of the Corporation.

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 spaces specified 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 Statutory Basis for, the Proposed Rule Change—

The proposed rule states, with specificity, one of the means that NSCC has determined is appropriate, during exceptional times such as record volume days, to protect NSCC, to insure the integrity of its systems and to insure the prompt and accurate clearance and settlement of eligible securities. It is a clarification of Rule 2 Section 3(ii) that a proposed member "* * * meet the operational requirements * * *" and "* * * conform to any condition and requirement which the Corporation reasonably deems necessary for its protection * * *". The proposed rule change will allow members to complete various operational processes, such as trade comparison and correction, which, during exceptional times, such as record volume days, may not be completed during normal business hours. The application of the rule will require settling members to provide appropriate staff in their offices during specified hours during non-clearing days. NSCC cannot perceive any significant problems which the settling members are likely to have in complying with the proposed rule change.

The proposed rule change is designed to protect NSCC, insure the integrity of its systems and to insure the prompt and accurate settlement of securities as mandated by Congress in Section 17A (a)(1) of the Securities Exchange Act of 1934, as amended, by allowing additional time for members to complete various operational processes, such as trade comparison and correction, which, during exceptional times, such as record volume days, may not be completed during business days. The proposed rule change is not applicable to the safeguarding of securities and funds in NSCC's custody or control or for which it is responsible because the rule refers to non-clearing days upon which NSCC will not be processing securities or funds on behalf of itself or its members. The application of the rule will be made on a non-discriminatory basis and will pertain to all settling members.

(B) Self-Regulatory Organization's Statement on Burden on Competition—

The proposed rule change is concerned solely with the inter-relationship of settling members of NSCC with each other and with NSCC and therefore we do not perceive any burden on competition being occasioned by this rule.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others—

Comments on the proposed rule change were solicited pursuant to the attached Exhibit 2 and no comments have been recieved to date.

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) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. 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, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule 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 in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also 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 on or before February 24, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 28, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81–3731 Filed 2–2–81; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series No. 2–81]

Treasury Notes of August 15, 1984; Series J–1984

January 29, 1981.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,750,000,000 of United States securities, designated Treasury Notes of August 15, 1984, Series J–1984 (CUSIP No. 912827 LN 0). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated February 17, 1981, and will bear interest from that date, payable on a semiannual basis on August 15, 1981, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature August 15, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, February 3, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 2, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting damand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank in New York their positions in the borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customers are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from

commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public persion and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That reate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the bases of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less that the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Tuesday, February 17, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, February 11, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer indentifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public

announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-4049 Filed 1-30-81; 4:20 pm]

BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series No. 3-81]

13% Treasury Notes of November 15, 1990; Series B-1990

January 29, 1981.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated 13% Treasury Notes of November 15, 1990, Series B-1990 (CUSIP No. 912827 LF 7). The securities will be sold at auction, with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be issued February 17, 1981, and are offered as an additional amount of 13% Treasury Notes of November 15, 1990, Series B-1990 (CUSIP No. 912827 LF 7) dated November 17, 1980. Payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from November 17, 1980, to February 17, 1981. Interest on the securities offered as an additional issue is payable on a semiannual basis on May 15, 1981, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 1990, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in mutiples of those amounts. Interchanges of securities or different denominations and on coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. Thesa general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 4, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 3, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 97.75 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when tha prica is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for alloted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 17, 1980, to February 17, 1981, in the amount of $33.03867 per $1,000 of securities allotted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 17, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, February 11, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-4050 Filed 1-30-81; 4:20 pm]

BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series No. 4-81]

12¾% Treasury Bonds of 2005-2010

January 29, 1981.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,250,000,000 of the United States securities, designated 12¾% Treasury Bonds of 2005-2010 (CUSIP No. 912810 CS 5). The securities will be sold at auction, with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government Accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be issued February 17, 1981, and are offered as an additional amount of 12¾% Treasury Bonds of 2005-2010 (CUSIP No. 912810 CS 5) dated November 17, 1980. Payment for the securities will be calculated on the basis of the auction price determined in accordance with the circular, plus accrued interest from November 17, 1980, to February 17, 1981. Interest on the securities offered as an additional issue is payable on a semiannual basis on May 15, 1981, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 2010, but may be redeemed at the option of the United States on and after November 15, 2005, in whole or in part, at par and accrued interst on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or

hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, February 5, 1981. Noncompetitive tenders as defined below will be considerd timely if postmarked no later than Wednesday, February 4, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00 Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 92.75 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender; and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount, applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 17, 1980, to February 17, 1981, in the amount of $32.40331 per $1,000 of securities allotted. Settlement on securities alloted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, February 17, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, February 11, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the

inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-4051 Filed 1-30-81; 4:20 pm]

BILLING CODE 4810-40-M

ENVIRONMENTAL PROTECTION AGENCY

[A SFRL 1743-5]

Women's Business Enterprise Policy for the Construction Grants Program (PRM #80-4)

AGENCY: The Environmental Protection Agency.

ACTION: Notice of deferral of date of applicability of Construction Grants Program Requirements Memorandum PRM #80-4.

SUMMARY: This notice defers the date of applicability of PRM #80-4 (Women's Business Enterprise Policy for the Construction Grants Program), 45 FR 51490 (August 1, 1980), from February 1, 1981, until June 1, 1981. This action is necessary to allow for uniform national procedures for implementing the policy to be developed.

FOR FURTHER INFORMATION CONTACT: Robert Knox, U.S. Environmental Protection Agency, Office of Small and Disadvantaged Business Utilization, 401 M Street, S.W., Washington, D.C. 20460. (202) 755-1127.

NOTICE OF DEFERRAL: The policies and requirements of Program Requirements Memorandum #80-4, Women's Business Enterprise Policy for the Construction Grants Program shall be applicable to all projects for which assistance is awarded after May 31, 1981. This defers the date of applicability from February 1, 1981 to June 1, 1981. Nothing in this notice precludes a grantee, contractor, or consultant from voluntarily implementing the policy set forth in PRM #80-4 for projects funded prior to June 1, 1981, and EPA encourages such action.

Dated: January 30, 1981.

Walter Barber, Jr.,

Acting Administrator.

[FR Doc. 81-4145 Filed 2-2-81; 8:45 am]

BILLING CODE 6560-38-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 22
Tuesday, February 3, 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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, February 3, 1981.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE DISCUSSED:

1. Ratification of Three Notation Votes.
2. Freedom of Information Act Appeal No. 80-11-FOIA-009-MK concerning a request by a charging party for access to intraoffice memorandum from his Title VII file.
3. Freedom of Information Act Appeal No. 80-11-FOIA-4-SF concerning a request for documents from an ADEA file.
4. Freedom of Information Act Appeal No. 80-11-FOIA-11-PX concerning a request for an open age discrimination charge file.
5. Section 501 Transition Year Accomplishment Reports.
6. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice issued January 27, 1981.

[S-162-81 Filed 1-30-81; 3:58 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Special Closed Meeting on the subject listed below on Thursday, February 5, 1981, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—Report of Committee of Commissioners on Relocation of Commission Offices.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 29, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-161-81 Filed 1-30-81; 10:20 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

The following item has been deleted at the request of the Office of Science and Technology from the list of agenda items scheduled for consideration at the January 29, 1981 Open Meeting, and previously listed in the Commission's Public Notice of January 22, 1981.

Agenda, Item No., and Subject

General—1—The Office of Science and Technology proposes to establish an advisory committee to assist in preparation for the 1983 Region 2 Broadcasting Satellite Service Planning Conference. This committee will provide advice in various technical areas dealt with by the Conference, including identification of the types of service possible for a Direct Broadcasting Satellite Service (DBS) and the technical parameters of those services.

Membership of the committee will be solicited from diverse public, private, and governmental sources to ensure full representation of all views.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 29, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-162-81 Filed 1-30-81; 10:20 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The following item has been deleted at the request of the Common Carrier Bureau from the list of agenda items scheduled for consideration at the January 29, 1981 Open Meeting, and previously listed in the Commission's Public Notice of January 22, 1981.

Agenda, Item No., and Subject

Common Carrier—5—*Title:* Interim procedures for 43 MHz applications in Public Mobile Radio Services. **Summary:** The FCC is considering petitions for reconsideration of its earlier order freezing 43 MHz Public Mobile Radio Services applications. That policy was adopted in response to television interference associated with paging operations on 43.22 and 43.58 MHz.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 28, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-163-81 Filed 1-30-81; 10:20 am]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The following item has been deleted at the request of Commissioner Washburn's Office from the list of agenda items scheduled for consideration at the January 29, 1981, Closed Meeting, and previously listed in the Commission's Public Notice of January 23, 1981.

Agenda, Item No., and Subject

Hearing—3—Draft Decision in the Alexander S. Klein, Jr., Media, Pennsylvania, comparative FM radio proceeding. (Docket Nos. 20567-9).

Additional information concerning this item may be obtained from Edward

Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 28, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S–184–81 Filed 1–30–81; 10:21 am]

BILLING CODE 6712–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:45 p.m. on Thursday, January 29, 1981, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the application of The Mitsubishi Bank of California, Los Angeles, California, for consent to merge under its charter and title with First National Bank of San Diego County, Escondido, California, and for consent to establish the eleven offices of First National Bank of San Diego County as branches of the resultant bank.

In calling the meeting, the Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by authority of subsections (c)(8) and (c)(9)(A)(ii) thereof (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii).

Dated: January 30, 1981.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–191–81 Filed 1–30–81; 3:35 pm]

BILLING CODE 6714–01–M

7

FEDERAL ENERGY REGULATORY COMMISSION.

January 30, 1981.

TIME AND DATE: 10 a.m., February 6, 1981.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing on the Alaska Natural Gas Transportation System.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357–8400.

[S–187–81 Filed 1–30–81; 11:23 am]

BILLING CODE 6450–85–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

January 28, 1981.

TIME AND DATE: 10 a.m., Wednesday, February 4, 1981.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Anaconda Copper Company, WEST 79–128–M, WEST 79–130–M, WEST 79–137–M (Issues include whether judge's findings of fact satisfy the requirements of the Administrative Procedure Act and the Commission's Rules of Procedures).
2. Old Ben Coal Company, VINC 75–83–P, VINC 75–230–P, IBMA 76–86 (Issues include interpretation and application of 30 CFR §§ 75.400, 75.1104, 75.316 and 75.323).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–188–81 Filed 1–30–81; 2:58 pm]

BILLING CODE 6820–12–M

9

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Monday, February 9, 1981.

PLACE: 20th Street and Constitution Avenue NW., 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: Mr. Joseph R. Coyne, Assistant to the Board (202) 462–3204.

Dated: January 30, 1981.

James McAfee,

Assistant Secretary of the Board.

[S–190–81 Filed 1–30–81; 3:16 pm]

BILLING CODE 6210–01–M

10

LEGAL SERVICES CORPORATION.

Meeting of the Provision of Legal Services Committee.

TIME AND DATE: 10 a.m.–5 p.m., Friday, February 13, 1981.

PLACE: Legal Services Corporation, eighth floor conference room 3, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of November 13, 1980 Meeting.
3. Consideration of "A Plan For The Future."
4. Evaluation Report on Reginald Heber Smith Community Lawyer Fellowship Program.
5. Evaluation Report on Legal Services Institute.
6. Report on Standards Development.
7. Status Report on Pro Bono Grants.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, (202) 272–4040.

Issued: January 29, 1981.

Dan J. Bradley,

President.

[S–179–81 Filed 1–30–81; 10:33 am]

BILLING CODE 6820–35–M

11

LEGAL SERVICES CORPORATION.

Meeting of the Operations Committee

TIME AND DATE: 11 a.m.–5 p.m., Thursday, February 12, 1981

PLACE: Legal Services Corporation, eighth floor conference room 3, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of October 14, 1980 Meeting.
3. Reauthorization of the Legal Services Corporation.
4. Amendment of 45 C.F.R. Section 1612.4 (Legislative and Administrative Representation).
5. Comprehensive Civil Rights Regulation.
6. Affirmative Action Plan for Legal Services Corporation.
7. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, (202) 272–4040.

Issued: January 29, 1981.

Dan J. Bradley,

President.

[S–180–81 Filed 1–30–81; 10:33 am]

BILLING CODE 6820–35–M

12

MERIT SYSTEMS PROTECTION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 3311, January 14, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10 a.m., Wednesday, January 21, 1981.

PLACE: United States District Court, Third and Constitution, Washington, D.C., Courtroom 8 (Monday, Feb. 2 and Wednesday, Feb. 4), Courtroom 10 (Tuesday, Feb. 3).

STATUS: Open.

CHANGES IN THE MEETING: The location of the hearing in *Acting Special Counsel* v. *Paul D. Sullivan*, Docket No. HQ120600018, convened on January 21, 1981, and continuing hereto, is changed, effective February 2, 1981, to the place listed above. Due to the continuing nature of the hearing, the Board announces upon adjournment of each session the time and place of the next session.

CONTACT PERSON FOR MORE INFORMATION: Kathy W. Semone, Director, Divsion of Records and Inquiries, Office of the Secretary, 202–632–4525.

January 29, 1981.

Merit Systems Protection Board.

Ruth T. Prokop,

Chairwoman.

[S–176–81 Filed 1–29–81; 4:15 pm]

BILLING CODE 6325–01–M

13

NUCLEAR REGULATORY COMMISSION.

DATE: Week of February 2, 1981.

PLACE: Commissioners Conference Room, 1717 H Street NW., Washington, D.C., except as otherwise indicated.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Bethesda—Room P–118—7920 Norfolk Avenue (Phillips Bldg)—Monday, February 2:

2:30 p.m.: Discussion of Policy, Planning & Program Guidance for fiscal year 1983–87 (continuation) (approximately 1½ hours, public meeting)

Tuesday, February 3:

10 a.m.: Discussion of NRC Document Control System (approximately 1½ hours, closed—Exemption 9)

Wednesday, February 4:

10 a.m.: Meeting with Public Interest Groups on Future of Nuclear Power Regulation (approximately 2 hours, public meeting) (as announced)

2 p.m.: Discussion of Preliminary Policy Considerations in Development of a Safety Goal (approximately 1½ hours, public meeting) (as announced)

Thursday, February 5:

10 a.m.: Discussion of Management-Organization and Internal Personnel Matters (chairman's conference room) (approximately 1½ hours, open/closed status to be determined)

2 p.m.: Affirmation/discussion session (approximately 1 hour, public meeting/portions may be closed)

a. Sholly—Amendments to Part 2
b. Page Limitation on Briefs Filed w/ Appeal Boards
c. Part 60—Disposal of High Level Radioactive Wastes in Geologic Repositories-Licensing Procedures
d. Draft Bailly Show Cause Order (tentative) (closed—Exemption 10)

Friday, February 6:

No Commission meetings

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–169–81 Filed 1–30–81; 3:02 pm]

BILLING CODE 7590–01–M

14

[1P0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters)

TIME AND DATE: 9:30 a.m., Tuesday, February 10, 1981.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 13 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (202) 724–3094.

[S–165–81 Filed 1–30–81; 11:16 am]

BILLING CODE 4410–01–M

15

[1P0401]

PAROLE COMMISSION.

TIME AND DATE: 9 a.m.–1:30 p.m., Tuesday, February 3, 1981.

PLACE: Room 500, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On January 28, 1981, the Commission determined that the time for ending the above meeting be advanced to 12:00 noon on Tuesday, February 3, 1981. The meeting will be held in the above location for the purposes specified in the original announcement. The above change is being announced at the earliest practicable time.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Analyst (202) 724–3094.

[S–166–81 Filed 1–30–81; 11:16 am]

BILLING CODE 4410–01–M