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G.S.A.
16-11015

Friday
June 6, 1980

Equal Employment Opportunity Regulations

Highlights

- 38083 Equal Employment Opportunity** EEOC proposes regulations regarding affirmative recruitment and minority group statistics; comments by 8-5-80 (2 documents)
- 38050 Income Taxes** Treasury/IRS issues final rules relating to amortization of certain rehabilitation costs for certified historic structures
- 38056 Mobile Home Loans** VA announces increase in maximum charge for legal services a holder may include on claim under guarantee; effective 5-29-80
- 38080 Energy** DOE/FERC proposes exemption of mechanical cogeneration facilities from incremental pricing provisions; comments by 6-30-80
- 38276, 38302 Petroleum and Natural Gas** DOE/ERA issues final rules which prohibit use by new electric powerplants and certain major fuel burning installations; effective 8-5-80 (Parts IV and V of this issue) (2 documents)
- 38038 Petroleum Price Regulations** DOE/ERA issues adjustments to lower and upper tier crude oil price ceilings to reflect impact of inflation; effective 6-1-80

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

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

- 38064 Packaging and Containers** USDA/FSQS issues proposed rule to amend standards for condition of food containers; comments by 8-5-80
- 38258, 38271 Excise Tax Payments** Treasury/ATF issues proposed rules regarding electronic fund transfer and proposed return and deferral periods for certain tobacco products; comments by 8-5-80 (Part III of this issue) (2 documents)
- 38072 Banking** Depository Institutions Deregulation Committee extends comment period on proposed rules concerning offering of premiums or gifts by depository institutions; comments by 7-16-80
- 38040 Customs Duties** Treasury/Customs amends regulations relating to importation of metal articles temporarily free of duty; effective 6-6-80
- 38084 Employee Benefit Plans** Labor/P&WBP proposes revision of regulation relating to definition of "assets"; comment by 8-5-80
- 38230 Minimum Wages** Labor/ESA gives notice of general wage determinations for Federal and Federally assisted construction (Part II of this issue)
- 38042 Drugs** HHS/FDA issues final rule making editorial revisions to regulations for registering producers of drugs and for listing of drugs in commercial distribution; effective 7-7-80
- 38324 National Forests** USDA/FS issues final rule revising regulations governing authorizations for occupancy of land and conduct of special use activities; effective 7-7-80 (Part VI of this issue)
- 38057 Common Carriers** FMC issues specification of carrier policy statement concerning anti-rebating; effective 6-6-80
- 38073 Improving Government Regulations** CAB issues Semiannual Agenda of Regulations
- 38201-38202 Securities** Treasury amends Circular on Notes of Series S-1982 and E-1985 and announces interest rate on notes of series S-1982 (3 documents)
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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service: Administrative Office of the United States Courts

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One additional position of Federal Probation System Administrator in the Division of Probation, U.S. Courts, is excepted under Schedule B since it is impracticable to examine competitively for this position.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Raymond J. Mealy, Administrative Office of the U.S. Courts, 202-633-6116.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3272(a) is revised as set out below:

§ 213.3272 Administrative Office of the United States Courts.

(a) Not to exceed 15 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-17215 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service: Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that one position of Law Enforcement Liaison Officer (Drugs), GS-301-15, U.S. European Command, Department of Defense, is excepted under Schedule B because competitive examination for the position is impracticable.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 213—EXCEPTED SERVICE

Accordingly, 5 CFR 213.3206(d) is added, as follows:

§ 213.3206 Department of Defense.

* * * * *

(d) General.

(1) One position of Law Enforcement Liaison Officer (Drugs), GS-301-15, U.S. European Command.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-17212 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The excepted appointing authority for mentally restored individuals is revised to provide for certification to positions by Veterans Administration psychiatrists as well as psychologists and to permit an individual to serve up to 2 years after each significant period of mental illness.

EFFECTIVE DATE: March 26, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Hedwig Oswald, Office of Personnel Management, 202-632-5687.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3202(k) is revised to read as follows:

§ 213.3202 Entire executive civil service

* * * * *

(k) Positions at grades GS-15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218)

[FR Doc. 80-17217 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Federal Home Loan Bank Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions of Accounting Policy Analyst, GS-13/14/15, filled under the fellowship program of the Federal Home Loan Bank Board's Office of Examinations and Supervision are excepted under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE: April 22, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Dolores Griesemer, Federal Home Loan Bank Board, 202-377-6065.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3254 is added as set out below:

§ 213.3254 Federal Home Loan Bank Board.

(a) Positions of Accounting Policy Analyst, GS-13/14/15, in the Office of Examinations and Supervision filled in connection with a fellowship program. Appointments under this authority may not exceed 1 year, but may be extended for an additional period not to exceed 3 months. No more than two new appointments may be made under this authority during any consecutive 12-month period.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218)

[FR Doc. 80-17216 Filed 6-5-80; 8:45 am]

BILLING CODE: 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Four Physical Science Administration Officer positions at grades GS-11 and GS-12 under the Science, Engineering and Diplomacy Fellowship Program with Department of State's Bureau of Oceans and International Environmental and Scientific Affairs are excepted under Schedule B because it is impracticable to examine competitively for these positions.

EFFECTIVE DATE: March 6, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

On position content: Louise Miles, Department of State, 202-632-5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 213—EXCEPTED SERVICE

Accordingly, 5 CFR 213.3204 is added as set out below:

§ 213.3204 Department of State.

(a) Four Physical Science Administration Officer positions at grades GS-11 and GS-12 under the Bureau of Oceans and International Environmental and Scientific Affairs' Science, Engineering and Diplomacy Fellowship Program. Employment under this authority is not to exceed 1 year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp. p. 218)

[FR Doc. 80-17214 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Foundation on the Arts and the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that one additional position of Humanist Administrator, GS-1701-13, Division of State Programs, National Endowment for the Humanities, is excepted under Schedule B because competitive examination for the position is impracticable.

EFFECTIVE DATE: January 29, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-6000.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 213—EXCEPTED SERVICE

Accordingly, 5 CFR 213.3282(b)(5) is revised to read as follows:

§ 213.3282 National Foundation on the Arts and the Humanities.

(b) *National Endowment for the Humanities.*

(5) Until September 30, 1980, one position of Director, GS-1701-15, one position of Deputy Director, GS-1701-14, and six positions of Humanist Administrator, GS-1701-13, Division of State Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 80-17213 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

Witchweed; Miscellaneous Amendments to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the list of suppressive areas under the Witchweed Quarantine and Regulations by extending areas listed as suppressive areas in North Carolina and South Carolina and by deleting areas listed as suppressive areas in North Carolina and South Carolina. These amendments are necessary as emergency measures in order to prevent the artificial spread of witchweed and to delete unnecessary restrictions on the movement of certain articles.

DATES: Effective date of this document June 6, 1980. Written comments concerning this final rule must be received on or before August 5, 1980.

ADDRESS: Written comments concerning this final rule should be submitted to: H. V. Autry, Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine Programs, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine Programs, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the possibility that witchweed could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to

better control the spread of this pest. Also, with respect to restrictions concerning the movement of regulated articles for which there is no longer a basis for the imposition thereof, a situation exists requiring immediate action to lessen or delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited on or before August 5, 1980, and this action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Written Comments

Interested persons are invited to submit written comments concerning the final rule. Comments should bear a reference to the date and page numbers of this issue of the **Federal Register**. All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 635, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Background

Witchweed is a parasitic plant which causes the degeneration of corn, sorghum, and other grassy crops. It has been found in the United States only in parts of North Carolina and South Carolina. The Witchweed Quarantine and Regulations (7 CFR 301.80 through 301.80-10) quarantine the States of North Carolina and South Carolina and restrict the interstate movement of certain witchweed hosts from regulated areas in the quarantined States.

Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas where eradication of witchweed is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movements of host articles from generally infested areas and suppressive areas in order to prevent the artificial movement of witchweed to noninfested areas and to prevent the

reinfestation of suppressive areas which have been eradicated of the witchweed.

Surveys conducted by the United States Department of Agriculture and State agencies of North Carolina and South Carolina establish that witchweed has spread or is likely to spread to certain areas beyond the outer perimeter of areas previously designated as suppressive areas. Therefore, as an emergency measure, areas designated as suppressive areas are extended in the following counties in order to prevent the spread of witchweed and to facilitate its ultimate eradication: Brunswick, Craven, Duplin, Johnston, Lenoir, Onslow, Pender, Richmond, and Wayne in North Carolina; and Chesterfield, Darlington, and Florence in South Carolina.

The surveys also establish that witchweed no longer occurs in parts of the following counties: Brunswick, Duplin, Johnston, Jones, Lenoir, Moore, Richmond, and Wayne in North Carolina; and Chesterfield and Florence in South Carolina. Therefore, as an emergency measure, such parts of counties are deleted from the list of suppressive areas in order to delete unnecessary restrictions on the movement of witchweed host articles.

Also, certain nonsubstantive changes are made to reflect changes in property ownership and to describe more accurately the regulated areas. Accordingly, the list of regulated areas in the States of North Carolina and South Carolina is amended as set forth below:

1. In § 301.80-2a relating to the State of North Carolina, the regulated areas are redescribed to read as follows:

§ 301.80-2a Regulated areas; suppressive and generally infested areas.

North Carolina

(1) Generally infested area.

Robeson County. The entire county.

(2) Suppressive areas.

Beaufort County. The Jefferson,

Russell M., farm located on the southwest side of State Secondary Road 1609 and 0.6 mile southeast of the junction of said road and State Highway 32.

The Osborne, H. R., farm located on both sides of State Secondary Road 1609 and 0.5 mile southeast of the junction of said road and State Highway 32.

Bladen County. The entire county.

Brunswick County. The Babson, N. L., farm located on the west side of State Secondary Road 1321 and 0.4 mile south of its junction with State Highway 130.

The Bryant, Ottice, farm No. 1 located at the end of a farm road 1.0 mile west

of State Secondary Road 1342, 2.5 miles northwest of said State Secondary Road and its junction with State Highway 211.

The Bryant, Ottice, farm No. 2 located on both sides of State Secondary Road 1342, 2.3 miles northwest of said road and its junction with State Highway 211.

The Hewett, Jr., R. B., farm located at the end of a farm road on the northeast side of State Secondary Road 1132, 0.4 mile northeast of said road and its intersection with N. C. Highway 130.

The Meares, Hobson, farm located on both sides of State Secondary Road 1165 and 2.0 miles south of the junction of said road with U.S. Highway 17.

The Register, W. C., farm located on the south side of State Secondary Road 1147 and 0.3 mile east of the junction of said road and State Secondary Road 1143.

The Sanders, Albert C., farm located on the east side of State Secondary Road 1143 at the end of a dirt road located 0.5 mile south of the junction of State Secondary Roads 1143 and 1147.

The Smith, B. Coda, farm located on the west side of a dirt road and 0.6 mile north of its junction with State Secondary Road 1322, said junction being 0.1 mile west of the junction of State Secondary Road 1322 and State Secondary Road 1321.

The Smith, Wallace, farm located on the west side of State Secondary Road 1151 and 0.4 mile south of its junction of State Secondary Road 1147.

The Todd, Lester, farm located on the east side of State Secondary Road 1143 at the end of a dirt road located 0.5 mile south of the junction of State Secondary Roads 1143 and 1147.

Columbus County. That part of the county lying north and west of a line beginning at a point where State Highway 211 intersects the Bladen-Columbus County line, thence south along said Highway 211 to its intersection with State Secondary Road 1740, thence southwest and south along said State Secondary Road 1740 to its junction with U.S. Highways 74 and 76, thence west along said highways to its intersection with White Marsh Swamp, thence south along said swamp to its junction with Cypress Creek, thence southwest along said creek to its intersection with State Highway 130, thence northwest along said highway to its junction with State Secondary Road 1166, thence southwest along said road to its junction with State Secondary Road 1157, thence southwest along said road to its junction with U.S. Highway 701, thence south and west along said highway to its intersection with State Secondary Road 1314, thence west along said road to its junction with State Secondary Road 1346, thence southwest

along said road to its junction with the North Carolina-South Carolina State line.

The Jacobs, Thomas, farm located 0.2 mile north of State Secondary Road 1847 and 1 mile northeast of the junction of said road 1847 with State Secondary Road 1740.

The Long, J. M., farm located on the southwest side of State Secondary Road 1113 and 0.4 mile northwest of its junction with State Secondary Road 1108.

The McLamb, H. M., farm located on the southwest side of State Secondary Road 1113 and 0.5 mile northwest of its junction with State Secondary Road 1108.

The Owen, J. A., farm located on the southwest side of State Highway 87 and 0.3 mile southeast of the intersection of said Highway 87 with the Bladen-Columbus County line.

The Shaw, Archie, farm located 0.2 mile southeast of State Secondary Road 1864 and 0.5 mile southeast of the junction of said Road 1864 with State Secondary Road 1808.

The Shaw, Charles H., farm located 0.1 mile north of State Secondary Road 1847 and 0.9 mile northeast of the junction of said Road 1847 with State Secondary Road 1908.

The Shipman, C. S., farm located on the east side of State Secondary Road 1909 and 0.6 mile southeast of the junction of said Road 1909 with State Secondary Road 1908.

The Spivey, D. M., farm located in the northeast corner of the intersection of U.S. Highway 701 and Gum Swamp.

The Suggs, Lacy, farm located at the end of a dirt road 0.5 mile southeast of the junction of said road with State Secondary Road 1108, said junction being 0.7 mile northeast of the junction of State Secondary Road 1108 and State Secondary Road 1118.

The Young, Grace, farm located on the west side of N.C. State Secondary Road 1914 and 0.2 mile south of the junction of said road with N.C. State Secondary Road 1904.

Craven County. The Chapman, Idel M., farm located on the west side of State Secondary Road 1459 and 0.1 mile north of junction of State Secondary Road 1463 with said Road 1459 and 0.3 mile off west side of State Secondary Road 1459.

The Goodman, W. D., farm located on both sides of State Secondary Road 1263 and 2.6 miles east of its southern junction with State Secondary Road 1262.

The Hawkins, Annie A., farm located on both sides of State Secondary Road 1263 and 1 mile east of the junction of

said Road 1263 with State Secondary Road 1262.

The Hawkins, Mattie, farm located on the west side of State Secondary Road 1263 and 1.2 miles east and north of its southern junction with State Secondary Road 1262.

The Hodges, Mary K., farm located on both sides of State Secondary Road 1263 and 2.2 miles east of its southern junction with State Secondary Road 1262.

The Nelson Estate, Joseph, located on both sides of State Secondary Road 1450 and located 0.1 mile northeast of intersection of State Secondary Road 1454.

The Nobles, Jr., Jack, farm located on both sides of State Secondary Road 1262 and located 0.7 mile south of the junction of State Secondary Road 1258 and State Secondary Road 1262.

The West, Gladys W., farm located on both sides of State Secondary Road 1263 and 1.4 miles east of its southern junction with State Secondary Road 1262.

The White, Raymond E., farm located on both sides of State Secondary Road 1263 and 0.2 mile east of its northern junction with State Secondary Road 1262.

Cumberland County. All of Cumberland County excluding the Fort Bragg Military Reservation, the area within the corporate limits of the city of Fayetteville, and the unincorporated communities of East Fayetteville and Bonnie Doone.

Duplin County. That area bounded by a line beginning at a point where State Secondary Road 1337 intersects the Duplin-Sampson County line, thence northeast along said road to its intersection with State Secondary Road 1301, thence southeast along said road to its intersection with State Highway 50, thence northwest along said highway to its junction with State Secondary Road 1355, thence northeast along said road to its junction with State Secondary Road 1332, thence northeast along said road to its junction with State Secondary Road 1304, thence southeast along said road to its intersection with Bear Swamp, thence east along said swamp to its junction with Goshen Swamp, thence southeast along said swamp to its intersection with State Secondary Road 1004, thence southeast along said road to its intersection with Nahunga Creek, thence southwest along said creek to its intersection with State Secondary Road 1301, thence northwest along said road to its junction with State Secondary Road 1346, thence southwest along said road to its junction with State Secondary Road 1385, thence west along said road to its junction with State

Highway 50, thence southeast along said highway to its junction with State Secondary Road 1900, thence southeast along said road to its junction with State Secondary Road 1003, thence east along said road to its junction with State Highway 11, thence south along said highway to its junction with State Secondary Road 1922, thence southwest along said road to its junction with State Secondary Road 1909, thence south along said road to its junction with State Secondary Road 1912, thence west along said road to its intersection with the Magnolia city limits, thence south, west, and north along said city limits to its intersection with State Secondary Road 1003, thence southwest along said road to its junction with State Secondary Road 1101, thence southeast along said road to its intersection with State Secondary Road 1102, thence southwest along said road to its junction with State Secondary Road 1126, thence west along said road to its intersection with State Secondary Road 1100, thence southeast along said road to its intersection with State Secondary Road 1102, thence south along said road to its junction with State Secondary Road 1129, thence southwest along said road to its intersection with State Secondary Road 1128, thence northwest along said road to its intersection with Duplin-Sampson County, thence north along said county line to the point of beginning.

The Alphin, Clara, farm located in the north junction of State Secondary Road 1004 and State Secondary Road 1505.

The Beard, May Lou, farm located on both sides of State Secondary Road 1961 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bostic, Jake, farm located on both sides of State Secondary Road 1961 and 0.5 mile west of the intersection of said road and the Northeast Cape Fear River.

The Bradshaw, Gene A., farm located on the south side of State Secondary Road 1321 and 0.8 mile west of the junction of said road with State Secondary Road 1302.

The Bradshaw, Milton J., farm located at the northwest end of State Secondary Road 1980.

The Britt, Ben, farm located on the north side of State Secondary Road 1306 and 0.1 mile east of its junction with State Secondary Road 1361.

The Britt, Cornia, farm located on both sides of State Secondary Road 1545 and 0.5 mile east of the junction of said road and State Secondary Road 1564.

The Brock, Jack, farm located on both sides of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Brown, George, farm located on the west side of State Secondary Road 1004 and 0.8 mile north of its junction with State Secondary Road 1504.

The Chambers, D. F., farm, located on the south side of State Secondary Road 1700 and 0.6 mile west of its intersection with the Northeast Cape Fear River.

The Dail, Albert D., farm located on both sides of State Secondary Road 1524 and 0.1 mile north of the junction of said road and State Secondary Road 1525.

The Davis, Jimmie, farm located on the east side of State Highway 111 and the south side of State Secondary Road 1546.

The Davis, Wenzell, farm located on the south side of State Secondary Road 1560 and 0.3 mile south of the junction of said road and State Secondary Road 1537.

The English, James Earl, farm located on the north side of State Secondary Road 1980 and 0.3 mile southwest of the junction of said road and State Secondary Road 1979.

The Garner, S. C., farm located on the south side of State Secondary Road 1306 and 0.5 mile west of the junction of said road and State Secondary Road 1511.

The Georgia Pacific Corporation, farm located on the west side of the Seaboard Coast Line Railroad and 0.1 mile north of its intersection with State Secondary Road 1301.

The Goodson, Emma, farm located on the south side of State Secondary Road 1501 and 0.3 mile west of the junction of said road and State Secondary Road 1505.

The Grady, E. C., farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Grady, Robert, farm located on the east side of State Secondary Road 1560 and the south side of State Secondary Road 1537.

The Grady, S. Leland, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of the intersection of said road and the Northeast Cape Fear River.

The Green, Willie, farm located on both sides of State Secondary Road 1971 and 0.6 mile southwest of the junction of said road and State Highway 50.

The Hall, Gaston S., farm located on the northeast side of State Secondary Road 1301 and at its junction with State Secondary Road 1338.

The Harper, Milo, farm located on the northwest side of State Secondary Road 1539 and 0.6 mile northeast of the junction of said road and State Secondary Road 1540.

The Herring Estate, Jeff, farm located on the north side of State Secondary Road 1545 and 0.6 mile east of the

junction of said road and State Secondary Road 1564.

The Horne, Harry, farm located on the south side of State Secondary Road 1961 and 0.8 mile west of the intersection of said road and State Secondary Road 1962.

The Howard, Henry, farm located on the north side of State Secondary Road 1700 and 0.8 mile west of the intersection of said road and the Northeast Cape Fear River.

The Hussey Estate, M. W., farm located on the east side of State Secondary Road 1560 and 0.2 mile south of the junction of said road and State Secondary Road 1537.

The Ivey, Jr., C. C., farm located on the east side of State Secondary Road 1361 and 0.3 mile south of its junction with State Secondary Road 1362.

The Ivey, Foy, No. 2, farm located on both sides of State Secondary Road 1004 and 0.1 mile south of its junction with State Secondary Road 1561.

The Jernigan, Cornelia, farm located on west side of State Secondary Road 1360 and 0.4 mile south of its junction with State Secondary Road 1004.

The Johnson, Eldora, farm located on both sides of State Secondary Road 1123 and 1.2 miles west of the junction of said road and State Secondary Road 1103.

The Jones, Billy, farm located on both sides of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Jones, H. A., farm located on the south side of State Secondary Road 1700 and 0.7 mile west of the intersection of said road and the Northeast Cape Fear River.

The Jones, H. A., No. 2, farm located on both sides of State Secondary Road 1700 and 0.6 mile west of its intersection with the Northeast Cape Fear River.

The Jones, Nora, farm located on the west side of State Secondary Road 1004 and 0.3 mile south of its junction with State Secondary Road 1365.

The Kennedy, Owen, farm located on the east side of State Secondary Road 1726 and the southeast side of State Secondary Road 1702.

The Kennedy, Sidney J., farm located on the east side of State Secondary Road 1718 and 0.2 mile south of the junction of said road and State Highway 41.

The King, W. R., farm located on the east side of State Secondary Road 1302 and 0.1 mile south of the junction of said road and State Secondary Road 1308.

The Kornegay, Byrus, farm located on the east side of State Highway 403 and 0.1 mile north of its junction with State Secondary Road 1369.

The Kornegay, Cecil, farm located on the northwest side of State Secondary

Road 1306 and 1 mile southwest of its intersection with State Secondary Road 1500.

The Kornegay, Ethyl, farm located 0.2 mile east of State Secondary Road 1501 and 0.6 mile south of the intersection of said road and State Secondary Road 1519.

The Kornegay Estate, Issac, located on the southwest side of State Secondary Road 1306 and 0.7 mile northwest of the junction of said road and State Secondary Road 1305.

The Lane, David, farm located 0.1 mile east of State Secondary Road 1369 and 0.1 mile south of its junction with State Highway 403.

The Lewis, Merle S., farm located on the east side of State Secondary Road 1004 and both sides of State Secondary Road 1508.

The Marshburn, Freeman J., farm located on both sides of State Secondary Road 1128 and 0.7 mile southeast of the intersection of said road and State Secondary Road 1129.

The Maxwell, Myra, farm located on southeast side of State Secondary Road 1306 and the west side of State Secondary Road 1562.

The McCullen, Larry, farm located on the northeast side of State Highway 24 and 0.2 mile northwest of the junction of said highway and State Secondary Road 1904.

The McGowan, Woodell, farm located on the south side of State Secondary Road 1961 and 1.1 miles west of the intersection of said road and State Secondary Road 1962.

The Mercer, Cathleen, farm located on the south side of State Secondary Road 1703 and 1.1 miles east of the intersection of said road and State Secondary Road 1704.

The Miller, O'Berry, farm located on the north side of State Secondary Road 1700, and 0.1 mile east of its junction State Highway 11.

The Outlaw, Bennie F., farm located on both sides of State Secondary Road 1524 and the north side of State Secondary Road 1525.

The Outlaw, Emma, farm located on the south side of State Secondary Road 1509 and 0.5 mile southwest of the junction of said road and State Secondary Road 1510.

The Parrott, Jr., Mrs. Frank, farm located on the south side of State Secondary Road 1703 and 0.3 mile east of the intersection of said road and State Secondary Road 1704.

The Pate, Robert Lee, farm located on both sides of State Secondary Road 1357 and 0.9 mile southwest of the junction of said road and State Secondary Road 1306.

The Powell, William F., farm located on both sides of State Secondary Road 1128 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1129.

The Precythe, Harold, farm located on the east side of U.S. Highway 117 and 0.1 mile south of the junction of said highway and State Secondary Road 1354.

The Rivenbark, George W., farm located on the northwest side of State Secondary Road 1131 and 0.4 mile southwest of the junction of said road and State Secondary Road 1128.

The Rouse, Beatrice S., farm located on both sides of State Secondary Road 1980 and at the west end of said road.

The Rouse, Jim, farm located on both sides of State Secondary Road 1537 and 0.3 mile south of the junction of said road and State Secondary Road 1306.

The Rouse, Rouke, farm located on the north side of State Secondary Road 1537 and the west side of State Secondary Road 1538.

The Shepard, J. T., farm located on both sides of State Secondary Road 1732 and 0.2 mile north of the junction of said road and State Secondary Road 1703.

The Smith, R. J., farm located on the north side of State Highway 11 and 1.2 miles east of the junction of said highway and State Highway 111. The Smith, Sallie P., farm located on the northeast side of State Highway 111 and 0.8 mile southeast of the Duplin-Wayne County line.

The Stokes, Fred, farm located on the south side of State Secondary Road 1980 and 2.4 miles west of the junction of said road and State Secondary Road 1799.

The Stokes, William C., farm located at the southwest end of State Secondary Road 1980.

The Summerlin, D. C., farm located on the north side of State Secondary Road 1513 and 0.4 mile east of the junction of said road and State Secondary Road 1565.

The Summerline, Lannie, farm located on both sides of State Secondary Road 1359 and 0.3 mile southwest of its junction with State Secondary Road 1306.

The Summerlin, Oliver, farm located on the south side of State Highway 403 and 0.1 miles east of the corporate limits of the town of Faison.

The Sumner, India, farm located on the southwest side of State Highway 111 and 1.2 miles south of the intersection of said highway and State Secondary Road 1700.

The Sutton, Effie O., farm located on the northeast side of State Secondary Road 1004 and 0.7 mile northwest of its junction with State Secondary Road 1504.

The Turner, Lumas, farm located on the south side of State Secondary Road 1703 and 0.6 mile west of the junction of said road and State Secondary Road 1732.

The Walker, C. P., Estate, farm located on the west side of State Secondary Road 1368 and 1.2 miles north of its junction with State Secondary Road 1364.

The Whaley, Bennie, farm located on the southeast side of State Secondary Road 1961 and 0.3 mile northeast of the junction of said road and State Secondary Road 1800.

The Whitman, Herman E., farm located on the south side of State Secondary Road 1300 and 0.1 mile west of the junction of said road and State Road 1381.

The Whitman, Herman E., farm located on the north side of State Secondary Road 1300 and 0.8 mile east of the intersection of said road and State Secondary Road 1301.

The Williams, McArthur, farm located on the south side of State Secondary Road 1961 and 1 mile west of the intersection of said road and State Secondary Road 1962.

The Wilson, Mammie, farm located on the east side of State Highway 111 and 1.0 mile south of the intersection of said highway and State Secondary Road 1700.

Green County. That area bounded by a line beginning at a point where State Highway 102 intersects State Highway 123 and extending south along State Highway 123 to its intersection with Contentnea Creek, thence northwest along said creek to its junction with Panther Swamp, thence northerly along said Panther Swamp to its intersection with U.S. Highway 13-258, thence easterly along said highway to the point of beginning.

The Carmon, James E., farm located on the east side of State Secondary Road 1004 and 0.4 mile south of its junction with North Carolina Highway 102.

The Dixon, John, farm located on the east side of State Secondary Road 1004 at the junction on State Secondary Road 1405.

The Dixon, Sudie, farm located on the west side of State Secondary Road 1004 and 0.2 mile south of its junction of State Secondary Road 1405.

The Murphrey, Edward, farm located on the east side of State Secondary Road 1004 and 0.3 mile south of its junction with State Highway 102.

The Whitaker, J. H., farm located on the east side of State Secondary Road 1004 and 0.6 mile south of its junction with State Highway 102.

Harnett County. That area bounded by a line beginning at a point on the Harnett-Lee County line due west of the head of Barbecue Swamp and extending east to the head of said swamp, thence south and east along Barbecue Swamp to its intersection on State Secondary Road 1201, thence south and southeast along said road to its junction with State Highway 27, thence southeast along said highway to its junction with State Highway 24, thence southeast along said highway to its junction with State Secondary Road 1111, thence southwest along said road to its intersection with Harnett-Moore County line, thence northwest along the Harnett-Moore County line to its junction with the Moore-Harnett-Lee County line, thence northeast along the Harnett-Lee County line to the point of beginning.

That area bounded by a line beginning at a point where the Harnett-Cumberland County line and McLeod Creek intersect and extending northwest along said creek to its intersection with State Secondary Road 1117, thence northeast, northwest and north along said road to its intersection with Anderson Creek, thence southeast along said creek to its intersection with the State Highway 210, thence northeast along said highway to its junction with State Secondary Road 2030, thence southeast along said road to its junction with State Secondary Road 2031, thence southwest along said road to its intersection with the Harnett-Cumberland County line, thence southwest and west along said county line to the point of beginning.

The Cook, A. L., farm located on the east side of State Secondary Road 1201 and 1.5 miles southeast of the junction of said road with State Secondary Road 1203.

The Gilchrist, Leonard W., farm located on the southeast side of State Secondary Road 1111, 0.4 mile north of the junction of said road with State Secondary Road 1110.

The Johnson, Sr., Jonah C., farm located at the junction of State Secondary Roads 1553 and 1555. The farm lies in the northeast portion of this junction.

The Keath, Vick, farm located on the east side of State Secondary Road 1293 and 0.7 mile southwest of the junction of said road with State Secondary Road 1114.

The McAden, J. L., farm located on southeast side of State Highway 27 and 0.6 mile southwest of the intersection of said highway with State Highway 87.

The Proctor, T. G., farm located on the northeast side of State Highway 27 at that point where said highway forms an overpass over State Highway 87.

The Thomas, Floyd, E., farm located on the northeast side of State Secondary Road 1146 and 0.2 mile north of the junction of said road with State Secondary Road 1117.

The Womack, E. H., farm located on east side of State Highway 27, and 1.0 mile north of the junction of said highway with State Highway 24.

Hoke County. The entire county excluding Fort Bragg Military Reservation.

Johnston County. The Blackman, Dewey, farm located on the south side of State Secondary Road 1146, and 0.4 mile east of the junction of said road with State Secondary Road 1145.

The Braswell, J. C., farm located on the east side of State Secondary Road 2519 and 0.4 mile north of the junction of State Secondary Roads 2519 and 2520.

The Everett, Betty, farm located on the west side of State Secondary Road 2541 and 0.5 mile south of the junction of said road with State Secondary Road 1007.

The Everett, Betty, farm located on a farm road and 0.6 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Everett, Jasper, farm located on a farm road and 0.5 mile west of its junction with State Secondary Road 2541, said junction being 1.9 miles south of the junction of State Secondary Roads 2541 and 1007.

The Holt, Dorothy C., farm located on the west side of State Secondary Road 2542 and 0.1 mile south of its junction with State Secondary Road 1007.

The Hudson, Price, Estate farm located on a farm road and 0.4 mile north of its junction with State Secondary Road 1008, said junction being 0.8 mile northeast of the intersection of State Secondary Road 1008 with U.S. Highway 701.

The Johnson, Corby, farm located on the southwest side of State Highway 50 and 0.4 mile southeast of the intersection of said highway and State Secondary Road 1124.

The Johnson, Wade, farm located on both sides of State Secondary Road 1144 and 0.2 mile west of the junction of said road with State Secondary Road 1138.

The Jones, U. E., farm located on the south side of State Secondary Road 1128 and 0.7 mile east of the junction of said road with State Secondary Road 1124.

The Martin, Emmitt, Farm located on the east side of State Secondary Road 2519 and 0.3 mile north of the junction of State Secondary Roads 2519 and 2520.

The Martin, John L., farm located on the west side of State Secondary Road 1201 and 0.3 mile north of the junction of

said road with State Secondary Road 1200.

The Massengill, R. T., farm located on the south side of State Secondary Road 1145 and 0.2 mile west of its junction with State Secondary Road 1144.

The Naylor, Mrs. Luby, farm located on the southwest side of State Highway 50 and 0.3 mile northwest of the intersection of said highway and State Secondary Road 1124.

The Smith, Clifton, farm located on the east side of State Highway 96 at the junction of said highway and State Secondary Road 1120.

The Summerlin, Everett L., farm located on the north side of State Secondary Road 1008, and 0.6 mile west of the junction of said road with State Secondary Road 1199.

The Tart, Allen, farm located on the southwest corner of the junction of State Highway 96 and State Secondary Road 1120.

Jones County. The Franck, Mrs. Wilber, farm located on the south side of State Secondary Road 1116 and 1.9 miles west of junction of said road with State Secondary Road 1115.

Lee County. The McGilvary, Aquilla, farm located north of State Secondary Road 1188 and 0.6 mile east of the junction of said road with State Secondary Road 1001.

Lenoir County. The Barber, Clarence, farm located on both sides of State Secondary Road 1301 with 0.2 mile northeast of its junction with State Secondary Road 1302.

The Barwick, Charles H. and Evelyn Sutton, farm located on the north side of State Secondary Road 1324 and 0.1 mile east of its junction with State Secondary Road 1308.

The Braxton, Clyde, Estate located on both sides of State Secondary Road 1802 and 0.9 mile northeast of the junction of State Secondary Road 1802 and State Highway 11.

The Brown, Nannie H., farm located in the southwest junction of State Secondary Roads 1152 and 1309.

The Carey, Jack, farm located on both sides of State Secondary Road 1906 and 1.0 mile east of its junction with U.S. Highway 285.

The Carr, Lillian, farm located on the southwest side of State Secondary Road 1524 and 0.1 mile south of its junction with State Secondary Road 1526.

The Carter, Ephrom, farm located on the south side of State Secondary Road 1116 and 1.5 miles east of its junction with State Highway 11.

The Foss, Reginald D., farm located on the north side of State Secondary Road 1316 and 0.6 mile northwest of its junction with State Secondary Road 1318.

The Hamilton, C. W., farm located on the southeast side of State Secondary Road 1802 and 1.2 miles northeast of its junction with State Highway 11.

The Herring, Ben D., No. 1, farm located on both sides of State Secondary Road 1330 and 0.2 mile west of the junction of State Secondary Roads 1330 and 1331.

The Herring, Ben D., No. 2, farm located on the west side of State Secondary Road 1310 and 0.3 mile south of its junction with State Secondary Road 1311.

The Herring, Frances F., farm located on the west side of State Secondary Road 1310 and 0.6 mile south of its junction with State Secondary Road 1311.

The Herring, Lewis R., No. 1, farm located on the south side of State Secondary Road 1324 and 0.3 mile west of its junction with State Secondary Road 1333.

The Howard, Clarence, farm located on the south side of State Secondary Road 1105 and 0.1 mile east of its intersection with State Secondary Road 1118.

The Jarman, F. R., farm located on the southeast side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

The Jones, Edward S., farm located on the west side of U.S. Highway 258 and 0.3 mile north of its junction with State Secondary Road 1116.

The Joyner Farms, Inc., farm located on both sides of State Secondary Road 1324 and 0.5 mile east of its junction with State Secondary 1335.

The Moody, Alton, farm located on the south side of State Highway 55 and 0.6 mile northeast of its junction with State Secondary Road 1161.

The Moye, Lenton G., farm located on the west side of State Secondary Road 1335 and 0.3 mile north of its junction with State Secondary Road 1324.

The Parrott Farms, Inc., farm located on the northwest side of State Secondary Road 1157 and 0.7 mile northwest of its intersection with State Highway 55.

The Rouse, Forrest, farm located on the northeast side of State Secondary Road 1143 and 2.9 miles northwest of its intersection with State Secondary Road 1154.

The Rouse, Jim W., farm located on the northeast side of State Secondary Road 1143 and 2.8 miles northwest of its intersection with State Secondary Road 1154.

The Singleton, Ruby S., farm located on east side of State Secondary Road 1802 and 0.6 mile south of its junction with State Secondary Road 1801.

The Sutton, Iris, farm located on the east side of State Secondary Road 1152 and 0.6 mile south of its junction with State Secondary Road 1324.

The Sutton, M. L., farm located on the southeast side of State Secondary Road 1311 and 0.8 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Nathan, farm located on the southeast side of State Secondary Road 1311 and 0.6 mile southwest of its junction with State Secondary Road 1318.

The Sutton, Prentice, farm located on the south side of State Secondary Road 1503 and 0.3 mile southeast of its intersection with State Secondary Road 1327.

The Sutton, Robert H., farm located on the south side of State Secondary Road 1324 and 0.2 mile east of its junction with State Secondary Road 1327.

The Sutton, Woodrow W., farm located on the north side of State Secondary Road 1331 and 0.5 mile west of its junction with State Secondary Road 1333.

The Taylor, Heber, farm located on the north side of State Secondary road 1161 and 0.3 mile east of its junction with State Highway 55.

The Walters, H. F., farm located on both sides of State Secondary Road 1335 and 0.4 mile north of its junction with State Secondary Road 1324.

The Waters, Thomas, Estate located on both sides of State Secondary Road 1318 and 0.3 mile north of its junction with State Secondary Road 1317.

The Wood, C. W., farm located on the northwest side of State Secondary Road 1311 and 0.7 mile southwest of its junction with State Secondary Road 1318.

Moore County. The Marks, E. M., farm located on the south side of State Secondary Road 2019 and 2.5 miles east of the junction of said road and State Secondary Road 2018.

The McLaurin, Hattie J., farm located on the north side of N.C. Highway 211 and 0.5 mile west of the junction of said highway with State Secondary Road 2075.

The Thomas, Claude and Ted, farm located on the west side of State Secondary Road 1128 and 0.5 mile northwest of the junction of said road with State Secondary Road 1122.

Onslow County. The Cox, Robert B., farm located on the southeast side of State Secondary Road 1224, and 0.7 mile from the junction of said road and State Secondary Road 1222.

The Hancock, Sally, farm located on a dirt road 0.2 mile northeast of junction of State Secondary Road 1206 and State Secondary Road 1001.

The Lewis, L. Bryan, farm located on the southeast side of State Secondary Road 1224, and 0.9 mile from the junction of said road and State Secondary Road 1222.

The Marshburn, James B., farm located on the southeast side of State Secondary Road 1224, and 0.8 mile from the junction of said road and State Secondary Road 1222.

The McAllister, Henry, farm located on both sides of State Secondary Road 1316 and 1 mile southwest of said road and its junction with State Secondary Road 1308.

Pender County. That area bounded by a line beginning at a point where State Secondary Road 1104 intersects the Pender-Bladen County line, and extending northeast along said county line to its junction with Black River, thence southeast along said river to its intersection with State Highway 210; thence southwest along said highway to its junction with State Secondary Road 1103, thence southeast along said road to its junction with State Secondary Road 1104, thence southwest and northwest along said road to the point of beginning.

That area bounded by a line beginning at a point where Moores Creek intersects State Highway 53, and extending east along said highway to its intersection with State Secondary Road 1121, thence south along said road to its intersection with State Secondary Road 1125, thence west along said road to its intersection with Moores Creek, thence northeast along said creek to the point of beginning.

That area bounded by a line beginning at a point where State Secondary Road 1517, junctions with U.S. Highway 117, and extending northwest along said highway to its intersection with Walker Swamp, thence northeast along said swamp to its junction with Pike Creek, thence southeast along said creek to its junction with the Northeast Cape Fear River, thence south along said river to its intersection with State Highway 210, thence southwest along said highway to its junction with State Secondary Road 1518, thence southeast along said road to its junction with State Secondary Road 1517, thence westerly along said road to the point of beginning.

The Alderman, Bessie, farm located on the north side of State Highway 53 and 0.1 mile west of its intersection with State Secondary Road 1121.

The Anderson, Julian W., farm located on both sides of State Secondary Road 1108 and 0.9 mile northwest of the junction of said road and State Secondary Road 1107.

The Armstrong, Willie, farm located 0.5 mile west of State Secondary Road

1408 and 0.3 mile south of the junction of said road with State Highway 210.

The Colvin, Alex, farm located on the northwest side of State Secondary Road 1120 and 1.4 miles southwest of the intersection of said road and U.S. Highway 421.

The Corbett, P. P. Estate, farm located 0.1 mile west of State Secondary Road 1202 and 0.2 mile north of its junction with State Secondary Road 1100.

The Fensel, F. P., farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Kea, Leo, farm located 0.5 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The Kea, Nora, farm located 0.1 mile west of the end of State Secondary Road 1108.

The Marshall, Crawford, farm located on the north side of State Secondary Road 1103 and 0.6 mile west of its junction with State Secondary Road 1133.

The Marshall, Milvin, farm located on the north side of State Secondary Road 1103 and 0.6 mile east of the southern junction of said road and State Secondary Road 1104.

The McCallister, Mary K., farm located 0.2 mile east of State Secondary Road 1105 and 1 mile southwest of the junction of said road and State Secondary Road 1104.

The McLendon, Evander, farm located 0.4 mile north of State Secondary Road 1411 and 0.3 mile east of its intersection with Pike Creek.

The Murphy, Henry, farm located 0.1 mile west of State Secondary Road 1121 and 0.4 mile north of its intersection with State Highway 53.

The Stringfield Estate, John, located on the southwest side of State Secondary Road 1517 and 1.4 miles east of the junction of said road and U.S. Highway 117.

The Thomas, Kenneth, farm located on the west side of State Secondary Road 1125 and 0.2 mile north of its junction with State Secondary Road 1121.

The Walker, Janie N., farm located on both sides of State Secondary Road 1125 and on the west side of State Secondary Road 1121.

The Williams, John H., and Heirs, farm located on the east side of State Secondary Road 1520 and 2.7 miles north of the junction of said road and State Highway 210.

Pitt County. That area bounded by a line beginning at a point where State Secondary Road 1919 intersects the Pitt-Craven County Line, thence southwest along said county line to its intersection

with State Highway 118, thence westward along said highway to its intersection with State Secondary Road 1753, thence northward along said road to its junction with State Secondary Road 1919, thence eastward to the point of beginning.

The Garris, Bruce E., farm located in the south junction of State Highway 118 and State Secondary Road 1916.

The Hodges, M. B., farm located on the east side of State Secondary Road 1907 and 1.1 miles north of State Highway 118.

Richmond County. The Autry, J. H., farm located on the north side of State Secondary Road 1803 and 0.7 mile east of Osborne.

The Beck, Lacy A., farm located on both sides of State Secondary Road 1607 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1608.

The Bethea, Queen, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile southeast of the intersection of said road and State Secondary Road 1825.

The Davis, Climon, farm located on the northwest side of N.C. Highway 38 and 0.5 mile northeast of the intersection of said road and State Secondary Road 1803.

The Dial, Dormic, farm located on the north side of State Secondary Road 1607 and 0.8 mile west of the intersection of said road and State Secondary Road 1608.

The Dumas, Elnora, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The Dumas, Reba, farm located on the northeast side of State Secondary Road 1803 and 0.3 mile northwest of said intersection of N.C. Highway 38.

The Elizhbugar, Charity, farm located on the northeast side of State Secondary Road 1003 and 2 miles northwest of its junction with State Secondary Road 1475.

The Godfrey, J. R., farm located on the northwest side of State Secondary Road 1318 and 0.2 mile north of its junction with State Secondary Road 1310.

The Hailey, Annie, farm located on the north side of State Secondary Road 1475 and 1.7 miles west of its junction with U.S. Highway 1.

The Hailey, Maria, farm located on the southwest side of State Secondary Road 1440 and 0.3 mile southeast of its junction with State Secondary Road 1433.

The Hamlet Gin & Supply Co., farm located on both sides of State Secondary Road 1803 and on the east

side of the intersection of said road and State Secondary Road 1825.

The Ingram, Rome, farm located on the southwest side of State Secondary Road 1003 and 1.8 miles northwest of its junction with State Secondary Road 1475.

The McLaurin, Meta, farm located on the southwest side of State Secondary Road 1803 and 0.3 mile southeast of the intersection of said road and State Secondary Road 1825.

The McNeill, Dalton, farm located on the southwest side of State Secondary Road 1003 and 1.9 miles northwest of its junction with State Secondary Road 1475.

The Poe, William, farm located 0.6 mile on unnumbered road off State Road 1475, 0.2 mile southeast of its junction with State Road 1486.

The Quick, Julius, farm located on the northeast side of State Secondary Road 1992 and 0.6 mile northeast of its junction with State Secondary Road 1994.

The Rush, James, farm located on the southeast side of State Secondary Road 1442 and 0.7 mile northeast of its junction with State Secondary Road 1489.

The Sorenzen, Gladys, farm located on the southwest side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

The Steele, Thomas, farm located on the northwest side of State Road 1442 and 0.4 mile southwest of its junction with State Road 1489.

The Steen, Willard, farm located on the southwest side of State Secondary Road 1803 and 0.2 mile southeast of the intersection of said road and State Secondary Road 1825.

The Terry, Ruth, farm located on both sides of State Secondary Road 1442 and 0.2 mile northeast of its junction with State Secondary Road 1477.

The Terry, W. C., farm located on the west side of State Secondary Road 1424 at its junction with State Secondary Road 1507 at Roberdel, N.C.

The Thomas, Walter, farm located on both sides of U.S. Highway 220 and 0.4 mile northeast of its junction with State Secondary Road 1433.

The Wall, Ben, farm located on the northeast side of the State Secondary Road 1440 and 0.4 mile southeast of its junction with State Secondary Road 1433.

The Waters, Will, farm located on both sides of State Secondary Road 1623 and 0.4 mile southwest of its junction with State Secondary Road 1607.

The Watkins, Aaron, farm located on the southeast side of State Road 1442

and 0.8 mile northeast of its junction with State Road 1489.

The Watkins, John Q., farm located on the southeast side of State Secondary Road 1476 and 0.3 mile northeast of its junction with State Secondary Road 1442.

The Watkins, Mosby, farm located on both sides of State Secondary Road 1476 and 0.2 mile northeast of its junction with State Secondary Road 1442.

The York, Will, farm located on the northeast side of State Secondary Road 1803 and 0.4 mile northwest of the intersection of said road and N.C. Highway 38.

Sampson County. The entire county.

Scotland County. That area bounded by a line beginning at a point where U.S. Highway 15-401 intersects the North Carolina-South Carolina State line and extending northeast along said highway to its junction with U.S. Highways 15A-401A, thence north along said highway to its junction with U.S. Highway 501, thence north along said highway to its intersection with U.S. Highway 15-401, thence southwest along said highway to its intersection with State Secondary Road 1300, thence northwest along said road to its junction with State Secondary Road 1116, thence northwest along said road to its junction with State Secondary Road 1324, thence north along said road to its junction with State Secondary Road 1345, thence northwest along said road to its intersection with State Secondary Road 1341, thence northeast along said road to its junction with State Secondary Road 1328, thence north along said road to its intersection with the southern boundary of the Sandhills Game Management Area, thence east along said boundary to its intersection with U.S. Highway 15-501, thence north along said highway to its intersection with the Scotland-Hoke County line, thence southeast along said county line to the Scotland-Robeson County line, thence south and southwest along said county line to the North Carolina-South Carolina State line, thence northwest along said State line to the point of beginning, excluding the area within the corporate limits of the city of Laurinburg and the town of East Laurinburg.

The Butler, Luther, farm located on the south side of State Secondary Road 1154 and 0.2 mile east of the junction of said road with State Secondary Road 1155.

The Calhoun, L. E., farm located on the south side of State Highway 79 and 0.3 mile west of its junction with State Secondary Road 1118.

The Gibson, H. P., Estate farm located on the north side of State Highway 79 and 0.4 mile west of its junction of State Secondary Road 1118.

McCoy, R. F., farm located on the east side of State Secondary Road 1346 and 0.4 mile north of its junction with State Secondary Road 1343.

The Morgan, J. D., farm located on the east side of State Secondary Road 1346 and 0.5 mile north of the junction of said road with State Secondary Road 1343.

The Morgan, J. D., farm located on both sides of State Secondary Road 1345 and 0.1 mile northwest of its junction with State Secondary Road 1342.

The Newton, Peter F., farm located at the intersection of State Secondary Roads 1334, 1336, and 1345.

The Sharpe, Preston, farm located on the south side of U.S. Highway 74 and 0.2 mile west of the junction of said highway with State Secondary Road 1153.

The Steele, J. D., farm located on both sides of State Secondary Road 1351 and 0.9 mile northwest of the junction of said road with State Secondary Road 1346.

Wayne County. That area bounded by a line beginning at a point where State Highway 111 and State Secondary Road 1745 intersect, thence west and southwest along State Secondary Road 1745 to its intersection with State Highway 55, thence southwest and west along State Highway 55 to its intersection with State Secondary Road 1937, thence northerly on said road to its junction with State Secondary Road 1932, thence north on said road to its intersection with State Secondary Road 1120, thence easterly along said road to its junction with State Secondary Road 1915, thence east along a line projected from a point at the junction of State Secondary Roads 1120 and 1915 to the junction of said line with a point located at the junction of Sleepy Creek and Neuse River, thence east along said river to its intersection with State Highway 111, thence south along said highway to the point of beginning.

The Barwick, George, farm located on the east side of State Secondary Road 1931 and 0.1 mile south of its junction with State Secondary Road 1930.

The Baucom, Howard, farm located on the east side of State Secondary Road 1932 and 0.2 mile north of its junction with State Secondary Road 1927.

The Benton, Bernice L., farm located on the south side of State Secondary Road 1730 and 0.3 mile east of its junction with State Highway 111.

The Brock, Odell, farm located on the north side of State Secondary Road 1210 and 0.3 mile east of its junction with State Secondary Road 1209.

The Carraway, Ethel, farm located on the east side of State Secondary Road 1915 and 0.1 mile north of the junction of said road and State Secondary Road 1120.

The Coor, O. S., farm located on both sides of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Crawford, William P., farm located on the south side of State Secondary Road 1330 and 0.9 mile west of State Highway 581.

The Daly, N. B., farm located on the north side of State Secondary Road 1730 and 0.8 mile east of the junction of said road with State Highway 111.

The Dawson, L. A., farm located on the west side of State Highway 111 and 0.5 mile south of the junction of said highway and State Secondary Road 1730.

The Edwards, Julia, farm located in the northeast intersection of State Highway 111 and State Secondary Road 1745.

The Flowers, Willie, farm located on the north side of U.S. Highway 13 and 0.4 mile east of its junction with State Secondary Road 1207.

The Grady, Gertrude W., farm located on the south side of State Secondary Road 1741 and 0.7 mile east of its junction with State Secondary Road 1740.

The Grady, Mrs. Sim, farm located in the north junction of State Highway 111 and State Secondary Road 1730.

The Grant, Charlie, farm located on the south side of State Secondary Road 1745 and 0.4 mile west of its junction with State Secondary Road 1952.

The Grant, Maggie, Estate located on the west side of N.C. Highway 111 and 1.9 miles south of the junction of State Secondary Road 1730 with said highway.

The Grantham, Barfield, farm located on the west side of State Secondary Road 1931 and 0.4 mile north of its intersection with State Secondary Road 1120.

The Gray, Albert, farm located on the east side of State Secondary Road 1719 and 0.9 mile south of its intersection with U.S. Highway 70.

The Green, Bessey, farm located at the southern end of State Secondary Road 1741 and 1.3 miles east of its junction with State Secondary Road 1740.

The Griffin, McKinley, farm located on the north side of State Secondary Road 1737 and 0.2 mile east of its junction with State Secondary Road 1731.

The Griffin, Oliver H., farm located 0.6 mile north of Dudley and 0.2 mile west of U.S. Highway 117.

The Haggin, Joe, No. 1, farm located on the east side of State Secondary Road 1931 and 0.7 mile north of its intersection with State Secondary Road 1120.

The Haggin, Joe, No. 2, farm located on the east side of State Secondary Road 1931 and 1.1 miles northeast of its intersection with State Secondary Road 1120.

The Herring, Charles F., farm located on the south side of State Secondary Road 1741 and 0.3 mile east of its junction with State Secondary Road 1740.

The Herring, Harmon, farm located on the south side of State Secondary Road 1734 and 0.4 mile east of its junction with State Secondary Road 1731.

The Herring, Thel, farm located on the west side of State Secondary Road 1711 and 0.4 mile north of its junction with U.S. Highway 70A.

The Humphrey, Josephine, farm located on east side of State Secondary Road 1932 and 0.2 mile north of its intersection with State Secondary Road 1120.

The Ivey, W. H., farm located on the south side of State Secondary Road 1734 and 0.3 mile east of its junction with State Secondary Road 1731.

The Jackson, Major, farm located on the east side of State Secondary Road 1731 and 0.6 mile north of the Neuse River.

The Jones, Mary, farm located on both sides of State Secondary Road 1730 and its junction with State Secondary Road 1731.

The Lane, Alfred, farm located on the south side of State Secondary Road 1730 and 0.4 mile east of its junction with State Highway 111.

The Lofton, Burt & Davis, King, farm located on the east side of State Secondary Road 1739 and 0.3 mile south of its junction with State Highway 55.

The Lofton, Mary F., farm located on the south side of State Secondary Road 1745 and 0.1 mile west of its junction with State Secondary Road 1952.

The McClenny, G. A., farm located on the south side of State Secondary Road 1007 and 0.1 mile west of the junction of said road with State Highway 581.

The McClenny, G. A., No. 2, farm located on both sides of State Secondary Road 1332 and 0.1 mile north of junction of said road and State Secondary Road 1330.

The Newsome, Paul, farm located on the east side of State Secondary Road 1719 and 1 mile south of its intersection with U.S. Highway 70.

The Oliver, Estella J., farm located on the west side of U.S. Highway 117 and 0.8 mile north of Brogden School.

The Oliver, H. H., farm located on the south side of State Secondary Road 1219 and 0.4 mile east of its junction with State Secondary Road 1218.

The Parks, Robert, farm located on the southeast side of State Secondary Road

1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Perkins, Joe D., farm located on the northwest side of State Secondary Road 1711 and 0.2 mile southwest of the intersection of said road with U.S. Highway 70 Bypass.

The Price, James, farm located in the southeastern intersection of State Highway 111 and State Secondary Road 1745.

The Ray, Cora Pate, farm located on both sides of State Secondary Road 1730 and 0.8 mile west of its junction of State Secondary Road 1731.

The Raynor, A. B., farm located on the south side of U.S. Highway 13 and 0.1 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 1, farm located on the south side of U.S. Highway 13 and 0.3 mile east of its junction with State Secondary Road 1207.

The Raynor, Early, No. 2, farm located on the north side of State Secondary Road 1101 and 0.7 mile east of its intersection with State Secondary Road 1105.

The Raynor, Elester, farm located on the east side of State Secondary Road 1105 and 0.8 mile south of its intersection with U.S. Highway 13.

The Sasser, Johnny, farm located on the west side of State Secondary Road 1931 and 0.3 mile south of its junction with State Secondary Road 1930.

The Sasser, Rosa, farm located on both sides of State Highway 111 and 0.1 mile south of its junction with State Secondary Road 1912.

The Smith, Alfred, farm located on the north side of State Secondary Road 1330 and 0.9 mile west of the junction of said road and North Carolina Highway 581.

The Smith, Arnold, farm located on the southeast side of State Secondary Road 1932 and 0.5 mile northeast of its intersection with State Secondary Road 1120.

The Smith, M. G., farm located on the west side of State Secondary Road 1952 and 0.3 mile south of its junction with State Secondary Road 1745.

The Sutton, D. M., farm located on the east side of State Secondary Road 1731 and 0.9 mile north of the Neuse River.

The Sutton, Gordon, farm located on the south side of State Secondary Road 1730 and 1.6 miles east of its junction with State Highway 111.

The Talton, Lillian D., farm located on the south side of State Secondary Road 1730 and 0.6 mile east of its junction with State Highway 111.

The Thornton, S. E., farm located on the southeast junction of State Secondary Roads 1210 and 1209.

The Turnage, W. H., farm located on the northwest side of State Secondary Road 1932 and 0.3 mile northeast of its junction with State Secondary Road 1927.

The Whitfield, Herman, farm located at the end of State Secondary Road 1729.

The Williams, Eddie, farm located on the north side of State Highway 581 and the east side of State Secondary Road 1236 at the junction of said roads.

Wilson County. The Eatmon, Ralph, farm located on both sides of State Secondary Road 1302 and 0.5 mile east of its intersection with State Secondary Road 1301.

2. In § 301.80-2a relating to the State of South Carolina, the descriptions for suppressive areas in Chesterfield, Darlington, and Florence Counties are amended to add properties in alphabetical order to read as follows:

South Carolina

- (1) *Generally infested area.* None.
- (2) *Suppressive areas.*

Chesterfield County. The Boy Scouts of America Farm located on the east side of a dirt road and 0.2 mile south of its junction with State Secondary Highway 115, said junction being 0.8 mile northeast of the junction of said highway and State Secondary Highway 114.

Darlington County.

The Atkinson Farms located on both sides of State Secondary Highway 173 and 0.5 mile west of its intersection with State Secondary Highway 35.

Florence County.

The Georgia Pacific Paper Company Farm located on the south side of the junction of two dirt roads, said junction being 0.8 mile east of its junction with State Secondary Highway 461, said junction being 0.8 mile north of the intersection of said highway and State Secondary Highway 85.

The Poston, Charlton, farm located on the south side of State Primary Highway 378 and 0.1 mile west of its junction with State Secondary Highway 596.

3. In § 301.80-2a relating to the State of South Carolina, the following descriptions for suppressive areas in Chesterfield and Florence Counties are deleted:

Chesterfield County. The Funderburk, Abraham, farm located on the east side of a dirt road and 0.2 mile south of its

junction with State Secondary Highway 115, said junction being 0.8 mile northeast of the junction of said highway and State Secondary Highway 114.

The Keith, Julius, farm located on the east side of a dirt road and 0.5 mile north of its junction with a second dirt road, said junction being 0.1 mile northwest of the junction of State Secondary Highways 114 and 115.

Florence County. The Benjamin, Willie, farm located on the south side of a dirt road and 0.6 mile west of its junction with State Secondary Highway 136, said junction being 1.4 miles north of the intersection of State Secondary Highways 136 and 35.

The Edwards, R. L., farm located on the east side of State Primary Highway 51 and 1.1 miles northwest of its junction with State Secondary Highway 86.

The Floyd, Edward, farm located on the south side of State Secondary Highway 57 and 1.5 miles southeast of the intersection of said highway and State Primary Highway 51.

(Sec. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.80-2)

Done at Washington, D.C., this 3d day of June 1980.

Thomas G. Darling,

Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 80-17203 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 255]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 8-14, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 8, 1980.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons

grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979-80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The committee met again publicly on June 3, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

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

§ 910.555 Lemon Regulation 255.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 8, 1980, through June 14, 1980, is established at 315,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: June 5, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-17472 Filed 6-5-80; 11:38 a.m.]

BILLING CODE 3410-02-M

7 CFR Part 923

[Cherry Reg. 19]

Sweet Cherries Grown in Designated Counties in Washington; Grade, Size, Container, and Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade, size, container, and pack requirements on the handling of sweet cherries, other than Rainier, Royal Anne, and other light sweet cherries, grown in designated counties in the State of Washington. The regulation is necessary to promote orderly marketing of suitable quality and sizes of fresh Washington cherries in the interest of producers and consumers.

EFFECTIVE DATES: June 9, 1980, through July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha (202) 447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement and Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Washington Cherry Marketing Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This regulation is based upon an appraisal of the current and prospective market conditions for Washington sweet cherries. The committee estimates that 43,000 tons of sweet cherries will be available for fresh shipment during the 1980 season compared to actual shipment of 44,337 tons last season.

Under the regulation, shipments of cherries, except those of the Rainier, Royal Anne and similar varieties commonly referred to as "light sweet cherries", are required to grade Washington No. 1, except for a small increase in the tolerance for defects. The cherries are also required to be $\frac{3}{4}$ inch in diameter or larger in all containers, except for those in face-packed containers, 20-pound containers or larger, or experimental containers, for which the minimum size is $\frac{5}{8}$ inch. The container requirements specify the minimum amount of cherries, by weight, required in the various types of containers. The pack requirements establish minimum diameter

requirements for cherries packed in containers marked with row count/row size or minimum diameter designations. Individual shipments of cherries up to 100 pounds sold for home use and not for resale are exempted from the grade, size, container, and pack requirements, if certain conditions are met to prevent their movement into commercial markets.

The grade and size requirements are necessary to prevent the shipment of Washington cherries of a lower grade or smaller size than specified and are designed to provide ample supplies of good quality fruit in the interest of producers and consumers. The container and pack requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this regulation until 30 days after publication in the *Federal Register* (5 U.S.C. 553) because of insufficient time between the date when information upon which this regulation is based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting.

It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective date.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comments. The regulation has not been classified significant under the USDA criteria for implementing Executive Order 12044. An impact analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

Section 923.319 is added as follows: (§ 923.319 expires July 21, 1980, and will not be published in the annual Code of Federal Regulations)

§ 923.319 Cherry Regulation 19.

Order. (a) Cherry Regulation 18 (44 F.R. 37598) is hereby terminated as of the effective date hereof.

(b) *Grade and sizes.* During the period June 9, 1980, through July 21, 1980, no handler shall handle, except as otherwise provided in paragraphs (c), (d), and (e) of this section, any lot of cherries, except cherries of the Rainier,

Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries meet each of the following applicable requirements:

(1) Washington No. 1 grade except that the following tolerances, by count, or the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries:

(i) A total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided*, That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) At least 95 percent, by count, of the cherries in the lot shall measure not less than $\frac{5}{16}$ inch in diameter, except as hereinafter provided in paragraph (c)(2)(ii) and subparagraph (3) of this paragraph.

(3) At least 90 percent, by count, of the cherries in any lot of face-packed containers or any containers of 20 pounds, net weight, or more shall measure not less than $\frac{5}{16}$ inch in diameter and not more than 5 percent, by count, of such cherries may be less than $\frac{5}{16}$ inch in diameter.

(c) *Containers*. During the period June 9, 1980, through July 21, 1980, no handler shall handle any lot of cherries, except cherries of the Rainer, Royal Anne, and similar varieties commonly referred to as "light sweet cherries", unless such cherries are in containers which meet each of the following applicable requirements:

(1) The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of $15\frac{1}{2}$ by $10\frac{1}{2}$ by 4 inches shall not be less than 20 pounds; and all containers of cherries shall contain at least 12 pounds, net weight, of cherries.

(2) Subject to the provisions of subdivisions (i) and (ii) hereof, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such containers shall measure not less than $\frac{5}{16}$ inch in diameter, and not more than 5 percent, by count, of such cherries may be less than $\frac{5}{16}$ inch in diameter.

(d) *Pack*. (1) When containers of cherries are marked with one of the row count/row size designations shown in Column 1 of the following table, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided*, That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $\frac{54}{64}$ inch in diameter.

Table

Col. 1 Row count/row size	Col. 2 Diameter (inches)
9.....	73/64
10.....	65/64
11.....	59/64

(2) When containers of cherries are marked with a minimum diameter of $\frac{54}{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than such minimum diameter: *Provided*, That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $\frac{48}{64}$ inch in diameter.

(3) When containers of cherries are marked with a minimum diameter larger than $\frac{54}{64}$ inch, at least 90 percent, by count, of the cherries in any lot shall be not smaller than the diameter so marked: *Provided*, That of the 10 percent smaller cherries permitted not more than 5 percent, by count, may be smaller than $\frac{54}{64}$ inch in diameter.

(e) *Exceptions*. Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (b), (c), and (d) of this section, and of §§ 923.41 and 923.55 of this part:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(f) *Definitions*. When used herein, "Washington No. 1" and "diameter" shall have the same meaning as when used in the Washington State Standards for Grades of Sweet Cherries (Order 1550 effective April 29, 1978, WAC 16-414-050); "face-packed" means that cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container; "row count/row size" means the number of cherries of a uniform size necessary to pack row-faced across a $10\frac{1}{2}$ -inch inside width

container or comparable number of cherries when packed loose in a container; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: June 3, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division
Agricultural Marketing Service.

[FR Doc. 80-17251 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Dundy and Seward in Nebraska, and the county of Mora in New Mexico to the list of Certified Brucellosis-Free Areas and delete them from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the county of Charlotte in Florida to the list of Noncertified Areas and delete such county from the list of Modified Certified Brucellosis Areas because it has been determined that this county now qualifies only as a Noncertified Area. The effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the Federal Register (44 FR 76751-76754) effective December 28, 1979. These amendments add the counties of Dundy and Seward in Nebraska, and the county of Mora in New Mexico to the list of Certified Brucellosis-Free Areas in § 78.20 and delete these counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that such counties now come within the

definition of a Certified Brucellosis-Free Area contained in § 78.1(1) of the regulations. These amendments add the county of Charlotte in Florida to the list of Noncertified Areas in § 78.22 and delete such county from the list of Modified Certified Brucellosis Areas in § 78.21 because it has been determined that such county now qualifies only as a Noncertified Area. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Nebraska*. Dundy, Seward; *New Mexico*. Mora.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by deleting: *Florida*. Charlotte; *Nebraska*. Dundy, Seward; *New Mexico*. Mora.

§ 78.22 [Amended]

3. In § 78.22, paragraph (b) is amended by adding: *Florida*. Charlotte.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating areas as Noncertified Areas imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

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

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 29th day of May 1980.

Nervan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-17206 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This document amends the regulations concerning special permits to be issued on a lottery basis for the allotment of quarantine space for cattle to be imported through the Harry S Truman Animal Import Center. This amendment provides a method of selecting alternate applicants to replace applicants originally selected who have not delivered the required cooperative agreement and the required funds, payment bond or letter of credit, to the Department. This amendment provides for the allocation of such space and the issuance of special permits, as available, to alternate applicants and establishes a time for receipt of the required cooperative agreement and funds, payment bond or letter of credit from applicants and alternate applicants. The intended effect of this action is to achieve maximum utilization of all available quarantine space at HSTAIC.

EFFECTIVE DATES: June 6, 1980.

Comments on or before: August 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's

Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant". The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received. Dr. M. J. Tillery, Director, National Program Planning Staffs, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action.

The amendment revises the provisions relating to the issuance of special permits for quarantine of cattle at the Harry S Truman Animal Import Center and is essential in order to allow the Department to better coordinate and allocate personnel and materials to the facility and to provide maximum utilization of the facility. The amendment is of an emergency nature and must be placed in effect immediately to serve the purpose intended.

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

On Friday, November 2, 1979, there was published in the *Federal Register* (44 FR 63082) an amendment to the regulations that established February 1, 1980, as the last specific date for receipt of applications for special permits to be drawn on a lottery basis for the allocation of quarantine space for the second group of cattle to be imported through the Harry S Truman Animal Import Center.

On Friday, May 2, 1980, there was published in the *Federal Register* (45 FR 29268-29270) the fees and method of collection of the fees for the second importation of cattle to be imported through the HSTAIC.

The costs associated with the operation of the Harry S Truman Animal Import Center are to be borne by the importers using this facility and will vary in accordance with the actual

number of animals utilizing the facility during a given importation period. Each importer who has been authorized a special permit in the drawing, must sign a cooperative agreement which, among other things, sets forth the payment requirements prior to being awarded a special permit to import cattle into HSTAIC.

In order to provide sound financial management both for the prospective importers and the Department, it is essential that the importers, prior to issuance of the special permits, assume fiscal responsibility for the expenses to be incurred. Due to the unusual nature of the service and the need to have adequate funds available to the Department for the cost of the services which will be performed in connection with the importation of animals into the HSTAIC in accordance with the provisions of section 1 of the Act of May 6, 1970 (21 U.S.C. 135), the Department requires either advance payment, a payment bond or a letter of credit, meeting the requirements specified in the cooperative agreement, be deposited with the Service (Veterinary Services) before such services are provided.

The regulations do not presently require that the selected applicants deliver the cooperative agreement set forth in § 92.41(c) and the payment required under such agreement to the Department within a specified time. This has resulted in the Department not being able to determine if the applicants selected by lottery are going to exercise their right to obtain a special permit. This could result in less than full utilization of the HSTAIC for a particular importation even though other applicants who were not selected in the lottery would like to use the facility.

Therefore, this final rule amends § 92.41(a)(2) to provide a system by which applicants who have been selected in the lottery would lose their right to obtain a special permit for the use of the HSTAIC, if they do not deliver an executed cooperative agreement and the payment required thereunder to the Department within 15 days after notification by the Department that they have been selected in the lottery for space at HSTAIC and receipt of a cooperative agreement. This final rule also amends § 92.41(a)(2) to provide a system for choosing alternate applicants to replace those applicants who have not delivered their cooperative agreement and required payment within the specified time.

Specifically, this final rule amends the first sentence in § 92.41(a)(2) to require that the Department employee drawing names for the lottery for special permits for importation through the HSTAIC

draw the names of all applicants rather than the first 400. This final rule provides that in the event that there are more than 400 applicants for a particular drawing, those applicants who are drawn after the first 400 applicants shall become alternate applicants. If any of the first 400 applicants fail to deliver the cooperative agreement or deposit the fee, payment bond or letter of credit within 15 days after being advised by the Department of their selection and receipt of a cooperative agreement, their right to receive a special permit shall be cancelled. Alternate applicants shall be given the opportunity, in the order that they were drawn in the lottery, to replace the original applicants who fail to deliver their signed cooperative agreements and required payment to the Department within the prescribed time period. If any alternate applicant fails to deliver the signed cooperative agreement and required payment to the Department within 15 days of being advised of their selection and receipt of a cooperative agreement, their right to receive a special permit shall be cancelled and additional alternate applicants shall be given the same opportunity. This selection process shall continue until either all available space is allotted or there are no remaining alternate applicants.

This final rule further specifies that applicants who have been selected for the second importation shall deliver the cooperative agreement, which has been mailed by the Department to all such selected applicants, and required payment to the Department within 15 days of the publication of this document in the **Federal Register**. Failure to submit the signed cooperative agreement and required payment within such time period shall cancel their right to receive a special permit for the second importation.

Accordingly, receipt of a signed cooperative agreement together with appropriate funds, payment bond, or letter of credit, must be received from the applicants selected for the second importation through HSTAIC by Veterinary Services by close of business June 23, 1980.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

In § 92.41, the first sentence in paragraph (a)(2) is deleted and the following inserted in lieu thereof:

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

(a) * * *

(2) *Drawing for permits.* At least 6 months before the proposed date of

entry of cattle into the Harry S Truman Animal Import Center and at the time, date and place specified in the Notice of Drawing, a Department employee shall consecutively draw the names of all applicants. The first 400 applicants drawn shall be given the first opportunity to receive one special permit for one animal each, except that each person holding a special permit for the first importation shall, prior to the second drawing, be awarded space for not more than the number of animals specified on said first importation special permit less the number of animals entered by the person under the permit into HSTAIC for the first quarantine period, and; *Provided*, That an application for space for the second importation signed by the holder of a special permit for the first importation be delivered to the Department by February 14, 1980. In the event that there are more than 400 applicants for a particular drawing, those applicants who are selected after the first 400 applicants are selected shall become alternate applicants. If any of the first 400 applicants selected fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the service, as set forth in the cooperative agreement, within 15 days or being advised of his/her selection to receive a special permit and receipt of a cooperative agreement, the right of that person to receive a special permit for that particular drawing shall be cancelled; *Provided*, That applicants who have been selected for a special permit for the second importation shall have their right to a special permit cancelled if they fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the service, as set forth in the cooperative agreement, within 15 days after publication of this document in the **Federal Register**. A sufficient number of alternate applicants shall be selected in the order in which they were chosen by lottery to take the place of any of the original 400 applicants who may fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the Service, as set forth in the cooperative agreement, within 15 days of being advised of his/her selection to receive a special permit and receipt of a cooperative agreement. If any of the alternate applicants selected fail to deliver a completed

cooperative agreement, as set forth in paragraph (c) of this section, to the Department or fail to deposit the fee, payment bond or letter of credit with the Service, as set forth in the cooperative agreement, within 15 days of being advised of his/her selection to receive a special permit, the right of that person to receive a special permit for that particular drawing shall be cancelled. A sufficient number of additional alternate applicants shall be selected in the order in which they were chosen by the lottery to take the place of any of the original alternate applicants who may fail to deliver a completed cooperative agreement, as set forth in paragraph (c) of this section, to the Department or failed to deposit the fee, payment bond or letter of credit with the Service, as set forth in the cooperative agreement, within 15 days of being advised of their selection to receive a special permit and receipt of a cooperative agreement. This selection process shall continue in the same manner until either no available space exists for importing animals into the Harry S Truman Animal Import Center or until there are no remaining alternate applicants from which to select. * * *

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

Done at Washington, D.C., this 3rd day of June 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

(FR Doc. 80-17195 Filed 6-3-80; 3:11 pm)

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

Mandatory Petroleum Price Regulations; Adjustments To Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 19 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to take into account the impact of inflation. This action will result in estimated first sale prices for the months of June, July, and August 1980 of \$6.40, \$6.45, and \$6.50 per barrel

(lower tier) and \$14.31, \$14.42 and \$14.53 per barrel (upper tier), respectively.

EFFECTIVE DATE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, 202-653-4055.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, 202-653-3389.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, 202-252-6739.

SUPPLEMENTARY INFORMATION:

A. Introduction.

B. Crude Oil Price Schedule No. 19.

A. Introduction

On February 29, 1980, we issued Crude Oil Price Schedule No. 18 (45 FR 14843, March 7, 1980), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase to adjust for the impact of inflation. As we announced in the introduction to Schedule No. 18 this policy will continue during the period of June 1980 through September 1981 as we gradually decontrol domestic crude oil. Accordingly we are issuing Crude Oil Price Schedule No. 19 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during the months of June, July, and August 1980 to take into account the impact of inflation.

B. Crude Oil Price Schedule No. 19

Under Crude Oil Price Schedule No. 19 the May 1980 lower tier ceiling price (the May 15, 1973 posted price plus \$2.66 per barrel, resulting in an average first sale price of approximately \$6.35 per barrel), and the May 1980 upper tier ceiling price (the September 30, 1975 posted price plus \$1.53, resulting in an average first sale price of approximately \$14.20 per barrel), are adjusted for inflation for June, July, and August 1980, based on the first revision of the GNP deflator published on May 20, 1980, which reflects an annual rate of inflation of 9.3 percent.

1. *Lower tier ceiling prices.* Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in June, July and August 1980, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00744 which when

applied over a twelve-month period yields an effective annual rate of adjustment of 9.3 percent.

B. June 1980 adjustment = $(\$6.35) (.00744)$ per barrel = \$.047 per barrel rounded to \$.05 per barrel.

C. July 1980 adjustment = $(\$6.35 + .05) (.00744)$ per barrel = \$.048 per barrel rounded to \$.05 per barrel.

D. August 1980 adjustment = $(\$6.35 + .05 + .05) (.00744)$ per barrel = \$.048 per barrel rounded to \$.05 per barrel.

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of June, July and August 1980 are computed as follows:

June 1980 = $\$6.35 + \$0.05 = \$6.40$.

July 1980 = $\$6.40 + \$0.05 = \$6.45$.

August 1980 = $\$6.45 + \$0.05 = \$6.50$.

Using an average highest posted field price on May 15, 1973 of \$3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price ¹
June 1980.....	May 15, 1973 highest posted field price plus \$2.71.	\$6.40
July 1980.....	May 15, 1973 highest posted field price plus \$2.76.	\$6.45
August 1980 ...	May 15, 1973 highest posted field price plus \$2.81.	\$6.50

¹ Estimated average first sale price.

2. Upper tier ceiling prices.

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in June, July and August 1980 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = .00744.

B. June 1980 adjustment = $(\$14.20) (.00744)$ per barrel = \$.106 per barrel rounded to \$.11 per barrel.

C. July 1980 adjustment = $(\$14.20 + .11) (.00744)$ per barrel = \$.107 per barrel rounded to \$.11 per barrel.

D. August 1980 adjustment = $(\$14.20 + .11 + .11) (.00744)$ per barrel = \$.107 per barrel rounded to \$.11 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of June, July and August 1980, are computed as follows:

June 1980 = $\$14.20 + \$0.11 = \$14.31$.

July 1980 = $\$14.31 + \$0.11 = \$14.42$.

August 1980 = $\$14.42 + \$0.11 = \$14.53$.

Using an average highest posted field price on September 30, 1975 of \$12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price ¹
June 1980.....	September 30, 1975 highest posted field price plus \$1.64.	\$14.31
July 1980.....	September 30, 1975 highest posted field price plus \$1.75.	\$14.42
August 1980 ..	September 30, 1975 highest posted field price plus \$1.86.	\$14.53

¹ Estimated average first sale price.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory
Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 19 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to Ceiling Prices.

* * * * *

Appendix¹

* * * * *

Schedule No. 19 of Monthly Price Adjustments

(Effective June 1, 1980)

Month	Lower tier, May 15, 1973, posted price ¹ (plus)	Upper tier, Sept. 30, 1975, posted price ² (plus)
1976:		
February.....	1.35	-1.32
March.....	1.38	-1.25
April.....	1.41	-1.18
May.....	1.45	-1.11
June.....	1.48	-1.05
July.....	1.48	-1.05
August.....	1.48	-1.05
September.....	1.48	-1.05
October.....	1.48	-1.05
November.....	1.48	-1.05
December.....	1.48	-1.05
1977:		
January.....	1.48	-1.25
February.....	1.48	-1.25
March.....	1.48	-1.70
April.....	1.48	-1.70
May.....	1.48	-1.70
June.....	1.48	-1.70
July.....	1.48	-1.70
August.....	1.48	-1.70
September.....	1.51	-1.44
October.....	1.54	-1.18
November.....	1.57	-.92
December.....	1.59	-.87
1978:		
January.....	1.61	-.82
February.....	1.63	-.77
March.....	1.66	-.71
April.....	1.69	-.65
May.....	1.72	-.59
June.....	1.75	-.52
July.....	1.78	-.45
August.....	1.81	-.38
September.....	1.86	-.28
October.....	1.91	-.17

Schedule No. 19 of Monthly Price Adjustments— Continued

(Effective June 1, 1980)

Month	Lower tier, May 15, 1973, posted price ¹ (plus)	Upper tier, Sept. 30, 1975, posted price ² (plus)
November.....	1.96	-.06
December.....	1.99	.01
1979:		
January.....	2.02	.08
February.....	2.05	.15
March.....	2.09	.23
April.....	2.13	.31
May.....	2.17	.39
June.....	2.21	.48
July.....	2.25	.57
August.....	2.29	.66
September.....	2.33	.76
October.....	2.37	.86
November.....	2.41	.96
December.....	2.45	1.05
1980:		
January.....	2.49	1.14
February.....	2.53	1.23
March.....	2.57	1.33
April.....	2.61	1.43
May.....	2.66	1.53
June.....	2.71	1.64
July.....	2.76	1.75
August.....	2.81	1.86

¹ The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).

² The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on May 30, 1980, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through May 1980, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 18 effective March 1, 1980, are further increased as indicated in this schedule, effective June 1, 1980.

This schedule is effective only through August 31, 1980.

[FR Doc. 80-17210 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3019]

Hayoun Cosmetique, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a New York City firm and its corporate president, engaged in marketing and

advertising products known as Hayoun Miracle Lotion, Hayoun Drying Lotion, Hayoun Lemon Moisturizer and Hayoun Black Mask, to cease disseminating advertising representing that the use of these products, alone or as part of the Hayoun Cosmetique Kit, will cure acne; eliminate acne scars and pockmarks; and result in a skin free of acne blemishes. The firm is required to have a reasonable basis for representations relating to product characteristics, performance and efficacy; and maintain substantiating evidence for a period of three years. The order additionally requires that the firm conspicuously disclose that no product cures acne in every advertisement for the first six months of actual advertising of an acne preparation.

DATES: Complaint and order issued May 9, 1980.¹

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580, (202) 523-3727.

SUPPLEMENTARY INFORMATION: On Wednesday, Feb. 20, 1980, there was published in the Federal Register, 45 FR 11137, a proposed consent agreement with analysis in the Matter of Hayoun Cosmetique, Inc., a corporation, and Edouard Hayoun, individually and as corporate president, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.85 Government approval, action, connection or standards; 13.85-30 Federal Trade Commission orders or endorsements; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170-16 Cleansing, purifying; 13.170-70 Preventive or protective; 13.170-78 Renewing, restoring; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.280 Unique nature or advantages. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-10

¹ Copies of the Complaint and Decision and Order filed with the original document.

Corrective advertising; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-45(a) Advertising substantiation. Subpart-Disseminating Advertisements, Etc.: § 13.1043 Disseminating advertisements, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Carol M. Thomas,
Secretary.

[FR Doc. 80-17211 Filed 6-5-80; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket Nos. RM79-55 and RM79-54]

Small Power Production and Cogeneration; Conferences Concerning State Implementation of the Commission's Regulations Regarding Rates and Exemptions for Qualifying Small Power Production and Cogeneration Facilities

May 29, 1980

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of conferences concerning implementation of the Commission's Rules under Section 210 of the Public Utility Regulatory Policies Act of 1978.

SUMMARY: On February 19, 1980, the Federal Energy Regulatory Commission (Commission) issued final rules in Docket No. RM79-55 (45 FR 12214, February 25, 1980), and on March 13, 1980, the Commission issued final rules in Docket No. RM79-54 (45 FR 17959, March 20, 1980). These rules implement the rates and exemption provisions for qualifying cogeneration and small power production facilities under sections 210 and 201, respectively, of the Public Utility Regulatory Policies Act of 1978. Each State regulatory authority and nonregulated electric utility is required to implement the Commission's rules.

The Commission is holding conferences on these rules in various cities throughout the country. At each conference, the morning sessions, for the State Commissions, will feature discussion of the States' role in implementing the Commission's rules. The afternoon sessions, which are open to the public, begin at 1:30 p.m. The afternoon sessions will include an overview of the Commission's rules, Federal legislation affecting cogenerators and small power producers, and technical aspects of interconnected operation with electric utilities.

DATES: Boston, Massachusetts; June 17, 1980; Atlanta, Georgia; June 20, 1980; Boise, Idaho; June 23, 1980; Minneapolis/St. Paul; Minnesota, June 25, 1980; St. Louis, Missouri; June 27, 1980.

ADDRESSES:

June 17, 1980, 8:30 a.m.-5:30 p.m.—
Ramada Inn Airport, Logan
International Airport, Boston,
Massachusetts.
June 20, 1980, 8:30 a.m.-5:30 p.m.—
Ramada Inn Airport, Atlanta, Georgia.
June 23, 1980, 8:30 a.m.-5:30 p.m.—
Holiday Inn Airport, Boise, Idaho.
June 25, 1980, 8:30 a.m.-5:30 p.m.—
Rodeway Inn (at Airport)
Minneapolis/St. Paul, Minnesota.
June 27, 1980, 8:30 a.m.-5:30 p.m.—
Holiday Inn Airport, St. Louis,
Missouri.

FOR FURTHER INFORMATION CONTACT:

Frank Bolling, Office of Media Relations,
Federal Energy Regulatory
Commission, 825 North Capitol Street,
N.E., Washington, D.C. 20426, 202-
357-8380.

Deborah Gottheil, Office of the General
Counsel, Federal Energy Regulatory
Commission, 825 North Capitol Street,
N.E., Washington, D.C. 20426, 202-
357-8457.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17347 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 54

[T.D. 80-151]

Importations Temporarily Free of Duty; Customs Regulations Relating to Metal Articles Imported To Be Used in Remanufacture by Melting, Amended

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to conform to legislation extending until June 30, 1981, the existing suspension of Customs duty on certain metal waste and scrap and other articles of metal imported to be used in remanufacture by melting. The legislation also suspends the duty on certain articles of metal imported to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. These changes will expedite the entry and use of these articles and, because recovery of metal from metal waste and scrap usually requires less energy than is needed to produce metals from ores, aid in energy conservation. The amendments are not considered to be significant.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT:
Leonard J. Emmert, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-508, approved October 24, 1978, amended items 911.11 and 911.12, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), to suspend, until June 30, 1981, Customs duty on certain articles of metal imported to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. The legislation also extended until June 30, 1981, the existing suspension of duty on certain metal waste and scrap and other articles of metal imported to be used in remanufacture by melting.

The temporary suspension of duty on metal waste and scrap has been in effect almost continuously since 1942. On October 1, 1950, it was extended to include articles of metal imported to be used, and actually used, in remanufacture by melting (Act of March 13, 1942, 56 Stat. 171, as amended by Pub. L. 869, 81st Congress; see T.D. 52656, 86 Treas. Dec. 27 (1951)).

The suspension of duty on metal waste and scrap originally was instituted to assist steel producers in some sections of the United States in obtaining adequate supplies of raw materials. Duty-free importation was permitted for certain metal articles

provided that the importer submitted a "Certificate of Remelting" to Customs within 3 years of importation, verifying that the articles actually were used in remanufacture by melting.

The limitation of proof of actual use to a "Certificate of Remelting" has been found to be overly restrictive and unnecessarily burdensome to United States mills and refiners using imported scrap metal. It is anticipated that providing importers with the alternative of furnishing proof that the articles have been processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, will eliminate the difficulties encountered in furnishing proof of remanufacture by melting and the attendant delay in liquidating entries awaiting such proof. The extension also is expected to aid in energy conservation because the recovery of metal from metal waste and scrap usually requires less energy than is needed to produce metals from ores. While the duty on these articles has been suspended until June 30, 1981, because it will be necessary for Congress to consider whether to continue the suspension beyond that date, the regulations provide that the suspension is in force during the effective period of items 911.11 and 911.12, TSUS.

Articles of copper now are listed as an exception to the free entry provision in § 54.5(a), Customs Regulations. However, item 911.11, TSUS, provides for the duty free entry of these articles if to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content. To correct this inconsistency, copper is deleted from the exemptions in § 54.5(a).

Inapplicability of Public Notice and Delayed Effective Date Provisions

Because this is a technical amendment in which the public does not have a particular interest and it merely implements a statutory requirement, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because this amendment grants an exemption.

Amendments to the Regulations

Part 54, Customs Regulations (19 CFR 54), is amended to read as follows:

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

Metal Articles Imported To Be Used in Remanufacture by Melting, or To Be Processed by Shredding, Shearing, Compacting, or Similar Processing Which Renders Them Fit Only for the Recovery of the Metal Content

Sec.

54.5 Scope of exemptions; nondeposit of estimated duty.

54.6 Proof of intent; bond; proof of use; liquidation.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 19 U.S.C. 66, 1624, Gen. Hdnt. 11, Tariff Schedules of the United States (TSUS), (sec. 101, 76 Stat. 72; Item 911.10, TSUS, 92 Stat. 1774; Items 911.11 and 911.12, TSUS).

Metal Articles Imported To Be Used in Remanufacture by Melting, or To Be Processed by Shredding, Shearing, Compacting, or Similar Processing Which Renders Them Fit Only for the Recovery of the Metal Content

§ 54.5 Scope of exemptions; nondeposit of estimated duty.

(a) Except as otherwise provided in this section, articles in chief value of metal to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, and actually so used, shall be entitled to free entry upon compliance with section 54.6, if entered, or withdrawn from warehouse for consumption, during the effective period of items 911.11 and 911.12, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). This provision does not apply to

(1) articles in chief value of lead, zinc, or tungsten;

(2) metal-bearing materials provided for in Schedule 4, TSUS, or Part 1, Schedule 6, TSUS; or

(3) unwrought metal provided for in Part 2, Schedule 6, TSUS.

(b) No deposit of estimated duty shall be required upon the entry, or withdrawal from warehouse for consumption, of the articles described in paragraph (a) of this section if the district director is satisfied at the time of entry, or withdrawal, by written declaration of the importer that the merchandise is being imported to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders it fit only for the recovery of the metal content.

54.6 Proof of intent; bond; proof of use; liquidation.

Articles in chief value of metal, described in section 54.5(a) shall be admitted free of duty upon compliance

with the following conditions:

(a) There shall be filed in connection with the entry¹ a statement of the importer that the articles are to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content.

(b) If the articles are entered for consumption, there also shall be filed in connection with the entry a bond on Customs Form 7551 or 7553. If the articles are entered for warehouse, the regular warehouse bond, Customs Form 7555, shall be given, and withdrawals shall be made on Customs Form 7506. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed in paragraph (c) of this section.

(c) Within 3 years from the date of entry, or withdrawal from warehouse for consumption, the importer shall submit to the district director at the port of entry, a statement from the superintendent or manager of the plant at which the articles were used in remanufacture by melting, or were processed by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, showing:

(1) The name and location of the plant;

(2) The entry number, date, and port of entry (if the person making the statement is not in possession of this information, a reference to invoices, purchase orders, or other documents which will identify the shipment with the entry may be substituted);

(3) The date or inclusive dates of the remanufacture or processing of the articles; and

(4) A description of the remanufacture or processing in sufficient detail to enable the district director to determine whether it constituted a use in remanufacture by melting, or processing by shredding, shearing, compacting, or similar processing which rendered the articles fit only for the recovery of the metal content. In appropriate cases, the remanufacture or processing of the articles covered by more than one entry may be included in one statement. The statement shall be based on adequate and carefully kept plant and import records which shall be available during

¹ "In connection with the entry" means any time before liquidation of the entry or within the period during which a valid reliquidation may be completed (sec. 113.43(c)). Therefore, a claim for free entry under item 911.11 or 911.12, Tariff Schedules of the United States, supported by a statement of intent may be filed at any time before liquidation of the entry or within the period during which a valid reliquidation may be completed.

normal business hours to any Customs officer. The importer and plant manager shall maintain the import and plant records for 5 years from the date of the related entry of the merchandise. The burden shall be on the importer or plant manager to keep these records so that the claim of actual use can be established readily.

(d) If satisfactory proof of use of the articles in remanufacture by melting, or in processing by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, is furnished within the prescribed time, the entry shall be liquidated without the assessment of duty on the covered articles. If proof is not filed within 3 years from the date of entry, or withdrawal from warehouse for consumption, or the use does not warrant the classification claimed, the entry shall be liquidated without any exemption from duty under item 911.11 or 911.12, Tariff Schedules of the United States.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624) Sec. 101, 76 Stat. 72; Item 911.10, Tariff Schedules of the United States (TSUS), 92 Stat. 1774; Items 911.11 and 911.12, TSUS)

Regulations Determined to be Nonsignificant

In a directive published in the *Federal Register* on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations," the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the *Federal Register* and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet Treasury Department criteria in the directive for a "significant" regulation because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: May 9, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-17359 Filed 6-5-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 207

[Docket No. 79N-0118]

Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution; Model Regulation Editorial Revisions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the regulations for registering producers of drugs and for listing of drugs in commercial distribution. The revision makes the regulations more concise and readable.

EFFECTIVE DATE: July 7, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of July 31, 1979 (44 FR 44884), the Food and Drug Administration (FDA) proposed editorial revisions to Part 207 (21 CFR Part 207). Interested persons were invited to submit comments on the proposal.

FDA proposed to revise Part 207 as a result of applying the principles of Operation Common Sense—a comprehensive program initiated by the Department of Health and Human Services (HHS) to make regulations more understandable and to expedite HHS's regulations development process. Operation Common Sense was described in a notice published in the *Federal Register* of November 18, 1977 (42 FR 59555). Its goals include rewriting regulations so that they are clear and understandable, revising regulations on the basis of experience since their issuance, and minimizing compliance burdens imposed by regulations. Similarly, Executive Order 12044, "Improving Government Regulations," which appeared in the *Federal Register* of March 24, 1978 (43 FR 12661), requires periodic review of regulations to determine whether language should be simplified or clarified, and whether the approach and requirements of a

particular regulation continue to be warranted.

Operation Common Sense includes a requirement that each HHS agency issue a "model" regulation. Part 207 was chosen for this purpose because of the statutory nature of the requirements of registration and drug listing, because of its operational impact on drug manufacturers, and because of its paperwork and reporting requirements. For these reasons, it is imperative that the regulation be easily understood and implemented as efficiently as possible.

FDA has made nonsubstantive editorial changes in the regulation to improve clarity and readability. References to FDA forms have been changed in response to the Public Health Service's substitution of "FDA-" for "FD-" as the prefix for FDA forms. FDA has also deleted the reference to the Drug Listing Act of 1972, Pub. L. 92-387, in the "AUTHORITY" statement preceding Subpart A of Part 207 because that Act is an amendment to the Federal Food, Drug, and Cosmetic Act, already cited in the "AUTHORITY" statement.

FDA received one comment on the proposal concerning several provisions of the proposed revised regulation, as follows:

1. The comment suggested that because the information requested in § 207.31(b) concerning the quantity of drugs distributed is a request in conjunction with annual registration, it would be more appropriate for the request to appear in a section on registration rather than in a section on drug listing.

Section 207.31(b) is a request that drug distribution information be voluntarily submitted in conjunction with the annual registration. Response to this request has been minimal, and the agency has found the sparse data submitted to be of questionable value to the agency. Consequently, FDA no longer encourages the submission of data under § 207.31(b) and concludes that this section should be withdrawn as being obsolete. The final rule as set forth below has been revised accordingly.

2. The comment stated that it would be helpful if the regulation were revised to show how soon after registering under § 207.35 the registrant might expect the agency to return a validated copy of the registration form (Form FDA-2656).

Before a validated copy is returned to the registrant, the registration form is processed and a permanent registration number is assigned by the appropriate FDA district office. The district office reviews the file to ensure that the firm has not previously registered under

another name or number as a drug establishment, has not registered under another name or number with any of the other FDA bureaus, and is engaged in activities that require the firm to register as a drug establishment. Every effort is made to complete this review as expeditiously as possible, and the goal of the district offices is to complete the processing within 10 working days. However, some establishments begin or cease operations, change ownership, etc., so frequently that the district office may require more than 10 days to process a registration form. Because of the rather wide variability in the processing time, FDA concludes it would be impractical to include in the regulation a timeframe for returning the validated forms.

3. The comment asserted that the placement requirement in § 207.35(b)(3)(i) for the NDC number to appear in the top third of the principal display panel is routinely ignored by some firms, including major firms. Unless this requirement is enforceable and enforced, the position requirement should be revoked.

The agency disagrees. The regulations now permit the NDC number to appear elsewhere on the label when it is part of a bar-code symbol. The vast majority of firms correctly place the NDC number. On those relatively rare occasions when a firm is found to be not complying with this requirement, the agency takes appropriate corrective action.

4. The comment observed that manufacturers do not place the manufacturer or package code segments of the NDC number on tablets or capsules, but only so place the product code. The comment also noted that the package code segment of the NDC number is routinely not placed on items such as ampules, vials, or unit dose blisters that are further packaged because the package code refers to the outer package size and not the individual units the package contains. While describing these practices as reasonable, and as apparently acceptable to FDA, the comment stated that they were technically inconsistent with the regulation and requested that "10" in the first line (of § 207.35(b)(3)(iv)) be deleted, so that the requirement would read, "all characters shall appear"

FDA agrees that requiring all ten characters of the NDC number to appear in all cases may be impractical. Consideration will be given to revising the regulation in line with the usefulness of the code and the practical problems presented with imprinting dosage forms and labels of small containers. However, because the changes made by

this amendment are editorial only, if the agency concludes that this change should be made, it will be proposed in a substantive revision of the regulation at a later date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), and 704, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374)); and Pub. L. 410, sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 207 is revised to read as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Subpart A—General

Sec.

207.3 Definitions.

207.7 Establishment registration and product listing for human blood and blood products and for medical devices.

Subpart B—Exemptions

207.10 Exemptions for domestic establishments.

Subpart C—Procedures for Domestic Drug Establishments

207.20 Who must register and submit a drug list.

207.21 Times for registration and drug listing.

207.22 How and where to register and list drugs.

207.25 Information required in registration and drug listing.

207.26 Amendments to registration.

207.30 Updating drug listing information.

207.31 Additional drug listing information.

207.35 Notification of registrant; drug establishment registration number and drug listing number.

207.37 Inspection of registrations and drug listings.

207.39 Misbranding by reference to registration or to registration number.

Subpart D—Procedure for Foreign Drug Establishments

207.40 Drug listing requirements for foreign drug establishments.

Authority: Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); and sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262).

Subpart A—General

§ 207.3 Definitions.

(a) The following definitions apply to this part:

(1) "Act" means the Federal Food, Drug, and Cosmetic Act approved June

25, 1938 (52 Stat. 1040 et seq., as amended (21 U.S.C. 301-392)), except as otherwise provided.

(2) "Advertising" and "labeling" include the promotional material described in § 202.1(l) (1) and (2) respectively.

(3) "Any material change" includes but is not limited to any change in the name of the drug, any change in the identity or quantity of the active ingredient(s), any change in the identity or quantity of the inactive ingredient(s) where quantitative listing of all ingredients is required by § 207.31(a)(2), any significant change in the labeling of a prescription drug, and any significant change in the label or package insert of an over-the-counter drug. Changes that are not significant include changes in arrangement or printing or changes of an editorial nature.

(4) "Bulk drug substance" means any substance that is represented for use in a drug and that, when used in the manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug, but the term does not include intermediates used in the synthesis of such substances.

(5) "Commercial distribution" means any distribution of a human drug except for investigational use under § 312.1, and any distribution of an animal drug or an animal feed bearing or containing an animal drug for noninvestigational uses, but the term does not include internal or interplant transfer of a bulk drug substance between registered domestic establishments within the same parent, subsidiary, and/or affiliate company.

(6) "Drug product salvaging" means the act of segregating drug products that may have been subjected to improper storage conditions, such as extremes in temperature, humidity, smoke, fumes, pressure, age, or radiation, for the purpose of returning some or all of the products to the marketplace.

(7) "Establishment" means a place of business under one management at one general physical location. The term includes, among others, independent laboratories that engage in control activities for a registered drug establishment (e.g., "consulting" laboratories), manufacturers of medicated feeds and of vitamin products that are drugs in accordance with section 201(g) of the act, human blood donor centers, and animal facilities used for the production or control testing of licensed biologicals, and establishments engaged in drug product salvaging.

(8) "Manufacturing or processing" means the "manufacture, preparation, propagation, compounding, or

processing of a drug or drugs" as used in section 510 of the act and is the making by chemical, physical, biological, or other procedures of any articles that meet the definition of drugs in section 201(g) of the act. The term includes manipulation, sampling, testing, or control procedures applied to the final product or to any part of the process. The term also includes repackaging or otherwise changing the container, wrapper, or labeling of any drug package to further the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer.

(9) "Representative sampling of advertisements" means typical advertising material (excluding labeling as determined in § 202.1(l) (1) and (2)) that gives a balanced picture of the promotional claims used for the drug, e.g., if more than one medical journal advertisement is used but the promotional content is essentially identical, only one need be submitted.

(10) "Representative sampling of any other labeling" means typical labeling material (excluding labels and package inserts) that gives a balanced picture of the promotional claims used for the drug, e.g., if more than one brochure is used but the promotional content is essentially identical, only one need be submitted.

(b) The definitions and interpretations of terms in sections 201, 502(e), and 510 of the act apply to the use of terms in this part.

§ 207.7 Establishment registration and product listing for human blood and blood products and for medical devices.

(a) Owners and operators of human blood and blood product establishments shall register and list their products with the Bureau of Biologics, Food and Drug Administration (FDA), on Form FDA-2830 (Blood Establishment Registration and Product Listing) in accordance with Part 607.

(b) Owners and operators of all human blood and blood product establishments who also manufacture or process other drug products at the same establishment shall register with both the Bureau of Biologics and the Bureau of Drugs, FDA. Such owners and operators shall list human blood and blood products with the Bureau of Biologics in accordance with Part 607, and shall list other drug products with the Bureau of Drugs, in accordance with this part.

(c) Owners and operators of establishments engaged in manufacture or processing of medical devices shall register and list their products with the

Bureau of Medical Devices, FDA, on Form FDA-2891 (Initial Registration of Device Establishments), FDA-2891a (Registration of Device Establishment), and FDA-2892 (Medical Device Listing), in accordance with Part 807.

(d) Owners and operators of establishments engaged in the manufacture or processing at the same establishment of both drug products and medical devices shall (1) register with the Bureau of Drugs, FDA, and list their drug products in accordance with this part, and (2) register with the Bureau of Medical Devices and list their medical devices in accordance with Part 807.

Subpart B—Exemptions

§ 207.10 Exemptions for domestic establishments.

The following classes of persons are exempt from registration and drug listing in accordance with this part under section 510(g) (1), (2), and (3) of the act, or because FDA has found, under section 510(g)(4), that their registration is not necessary for the protection of the public health.

(a) Pharmacies that operate under applicable local laws regulating dispensing of prescription drugs and that do not manufacture or process drugs for sale other than in the regular course of the practice of the profession of pharmacy, including dispensing and selling drugs at retail. The supplying of prescription drugs by these pharmacies to a practitioner licensed to administer these drugs for his or her use in the course of professional practice or to other pharmacies to meet temporary inventory shortages are not acts that require pharmacies to register.

(b) Hospitals, clinics, and public health agencies that maintain establishments in conformance with any applicable local laws regulating the practices of pharmacy or medicine and that regularly engage in dispensing prescription drugs, other than human blood or blood products, upon prescription of practitioners licensed by law to administer these drugs to patients under their professional care.

(c) Practitioners who are licensed by law to prescribe or administer drugs and who manufacture or process drugs solely for use in their professional practice.

(d) Persons who manufacture or process drugs not for sale but solely for use in research, teaching, or chemical analysis.

(e) Manufacturers of harmless inactive ingredients that are excipients, colorings, flavorings, emulsifiers, lubricants, preservatives, or solvents that become components of drugs, and

who otherwise would not be required to register under this part.

(f) Persons who use drugs to prepare feed for their own animals, except persons required under the act and its regulations to hold an approved new animal drug application (or supplement) or a medicated feed application to possess and use a drug.

(g) Any manufacturer of a virus, serum, toxin, or analogous product intended for treatment of domestic animals who holds an unsuspended and unrevoked license issued by the Secretary of Agriculture under the animal virus-serum-toxin law of March 4, 1913 (37 Stat. 832 [21 U.S.C. 151 et seq.]), provided that this exemption from registration applies only to the manufacture or processing of that animal virus, serum, toxin, or analogous product.

(h) Carriers, in their receipt, carriage, holding, or delivery of drugs in the usual course of business as carriers.

Subpart C—Procedures for Domestic Drug Establishments

§ 207.20 Who must register and submit a drug list.

(a) Owners or operators of all drug establishments not exempt under section 510(g) of the act or Subpart B of this part that engage in manufacturing or processing a drug or drugs are required to register and to submit a list of every drug in commercial distribution (whether or not the output of the establishment or any particular drug so listed enters interstate commerce); however, drug listing is not required for manufacturing or processing an animal feed (including a feed concentrate, a feed supplement, and a complete animal feed) bearing or containing an animal drug, nor is drug listing required for establishments engaged in drug product salvaging. No owner or operator may register an establishment, if any part of the establishment is registered by any other owner or operator. The parent, subsidiary, and/or affiliate company may submit listing information for all establishments when operations are conducted at more than one establishment and all establishments are jointly operated and controlled.

(b) Owners or operators of establishments not otherwise required to register under section 510 of the act that distribute under their own label or trade name a drug manufactured or processed by a registered establishment may elect to submit listing information directly to FDA and to obtain a Labeler Code. A distributor who submits drug listing information shall include the registration number of the drug

establishment that manufactured, prepared, propagated, compounded, or processed each drug listed. All distributors who submit drug listing information to FDA assume full responsibility for compliance with all of the requirements of this part. Each such distributor at the time of submitting or updating drug listing information as required under § 207.30 shall certify to the registered establishment that the submission has been made by providing a signed copy of Form FDA-2656 (Registration of Drug Establishment) to the registered establishment that manufactures or processes the drug. Each such distributor shall submit the original of Form FDA-2656 showing this certification to FDA, and shall accompany the certification with a list showing the National Drug Code number that the distributor has assigned to each drug product. If a distributor does not elect to submit drug listing information directly to FDA and to obtain a Labeler Code, the registered establishment shall submit the drug listing information. Distributors or registered establishments shall use Form FDA-2658 (Registered Establishments' Report of Private Label Distributors) to submit drug listing information or to request a Labeler Code, or both.

(c) Before beginning manufacture or processing of a drug subject to one of the following applications, an owner or operator of an establishment is required to register before the agency approves it: a new drug application, a new animal drug application, a medicated feed application, an antibiotic application (antibiotic Form 5 or 6), or an establishment license application to manufacture a biological product.

(d) No registration fee is required.

(e) Registration and listing do not constitute an admission, or agreement, or determination that a product is a drug as defined in section 201(g) of the act.

§ 207.21 Times for registration and drug listing.

(a) The owner or operator of an establishment entering into the manufacture or processing of a drug or drugs shall register the establishment within 5 days after the beginning of the operation and shall submit a list of every drug in commercial distribution at that time. If the owner or operator of the establishment has not previously entered into such an operation, the owner or operator shall register within 5 days after submitting a new drug application, new animal drug application, medicated feed application, antibiotic application (antibiotic Form 5 or 6), or an establishment license application to manufacture a biological

product. Owners or operators of all establishments engaged in the drug activities described in § 207.3(a)(8) shall register annually within 30 days after receiving registration forms from FDA. FDA will mail Forms FDA-2656 (Registration of Drug Establishment) to registered establishments according to a schedule based on the first letter of the name of the establishment's parent company as stated on the firm's registration form. If no parent company name is given on that form, the schedule is based on the first letter of the establishment's name. In scheduling the mailing of forms based on the first letter of the company name, FDA will not consider the word "the" when it appears as the first word in the name of the parent company or establishment.

The schedule is as follows:

First letter of company name	Date FDA will mail forms
A or B	January.
C, D, or E	February.
F, G, or H	March.
I, J, K, L, or M	April.
N, O, P, Q, or R	May.
S or T	June.
U, V, W, X, Y, or Z	July.

(b) Owners and operators of all registered establishments shall update their drug listing information every June and December.

§ 207.22 How and where to register and list drugs.

(a) An establishment shall register the first time on Form FDA-2656 (Registration of Drug Establishment), obtainable on request from the Bureau of Drugs, Drug Listing Branch (HFD-315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or from FDA district offices. An establishment whose drug registration for that year was validated under § 207.35 shall make subsequent annual registration on Form FDA-2656 as described in § 207.21(a) by mailing the completed form to the above address within 30 days after receipt from FDA.

(b) The first list of drugs and later June and December updates shall be on Form FDA-2657 (Drug Product Listing), obtainable upon request as described in paragraph (a) of this section. An establishment may submit, in lieu of Form FDA-2657, tapes for computer inputs containing the information specified in Form FDA-2657 if formats proposed for this use were reviewed and approved by the Bureau of Drugs, Drug Listing Branch, FDA.

§ 207.25 Information required in registration and drug listing.

(a) Form FDA-2656 (Registration of Drug Establishment) provides for furnishing or confirming information required by the act. This information includes, for each establishment, the name and full address of the drug establishment; all trade names used by the establishment; the kind of ownership or operation (that is, individually owned, partnership or corporation); and the name of the owner or operator of the establishment. The term "name of the owner or operator" includes in the case of a partnership the name of each partner, and in the case of a corporation the name and title of each corporate officer and director and the name of the State of incorporation.

(b) Form FDA-2657 (Drug Product Listing) provides that information required by the act be furnished as follows:

(1) A list of drugs, including bulk drug substances and drug premixes for use in the manufacture of animal feeds as well as finished dosage forms, by established name and by proprietary name, that are being manufactured or processed for commercial distribution and that have not been included in any list previously submitted to FDA on Form FDA-2657 or in conjunction with the FDA voluntary inventory on Form FDA-2422 (Survey Report of Marketed Drugs), or Form FDA-2250 (National Drug Code Directory Input).

(2) For each drug listed that the registrant regards as subject to section 505, 506, 507, or 512 of the act, the new drug application number, abbreviated new drug application number, new animal drug application number, or antibiotic application (antibiotic Form 5 or 6) number, and a copy of all current labeling, except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement.

(3) For each drug listed that the registrant regards as subject to section 351 of the Public Health Service Act, the license number of the manufacturer.

(4) For each human prescription drug listed that the registrant regards as not subject to section 505, 506, or 507 of the act or 351 of the Public Health Service Act, and that is not manufactured by a registered blood bank, a copy of all current labeling (except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement) and a representative sampling of advertisements.

(5) For each human over-the-counter drug listed, or each animal drug listed,

that the registrant regards as not subject to section 505, 506, 507, or 512 of the act or 351 of the Public Health Service Act, a copy of the label (except that only one representative container or carton label need be submitted where differences exist only in the quantity of contents statement), the package insert, and a representative sampling of any other labeling.

(6) For each prescription or over-the-counter drug so listed that the registrant regards as not subject to section 505, 506, 507, or 512 of the act or 351 of the Public Health Service Act, and that is not manufactured by a registered blood bank, a quantitative listing of the active ingredient(s). Unless the quantitative listing is expressed as a percentage in the official compendium or the ingredient is a nonantibiotic ingredient in a drug premix for use in the manufacture of animal feeds, the quantity of an ingredient shall be expressed in terms of the amount, not the percent, of that ingredient in each dosage unit or, if the drug is not in unit dosage form, the amount of the ingredient in a specific unit of weight or measure of the drug. For a drug formulation that is a custom premix subject to § 207.35(b)(2)(iii), the registrant may limit the quantitative listing of ingredients to each variation of level of active drug ingredient.

(7) For each drug listed, the registration number of every drug establishment within the parent company at which it is manufactured or processed.

(8) For each drug listed, the National Drug Code (NDC) number. If FDA has not assigned an NDC Labeler Code, the registrant shall include a Product Code and Package Code and FDA will assign a Labeler Code as described in § 207.35(b)(2)(i).

§ 207.26 Amendments to registration.

The registrant shall submit descriptions of changes in individual ownership, corporate or partnership structure, location, or drug-handling activity on Form FDA-2656 (Registration of Drug Establishment) as an amendment to registration, within 5 days of these changes. A change in a registered establishment's firm name within 6 months of the registration of the establishment is required to be supported by a signed statement of the registrant that the change is not made for the purpose of changing the name of the manufacturer of a drug product under § 201.1. Changes in the names of officers and directors of the corporations do not require this amendment but must be reported in the annual registration.

§ 207.30 Updating drug listing information.

(a) After submitting the initial drug listing information, every person who is required to list drugs under § 207.20 shall submit on Form FDA-2657 (Drug Product Listing) during each subsequent June and December, or at the discretion of the registrant when the change occurs, the following information:

(1) A list of each drug introduced by the registrant for commercial distribution which has not been included in any list previously submitted. The registrant shall provide all of the information required by § 207.25(b) for each such drug.

(2) A list of each drug formerly listed in accordance with § 207.25(b) for which commercial distribution has been discontinued, including for each drug so listed the National Drug Code (NDC) number, the identity by established name and by proprietary name, and date of discontinuance. It is requested but not required that the reason for discontinuance of distribution be included with this information.

(3) A list of each drug for which a notice of discontinuance was submitted under paragraph (a)(2) of this section and for which commercial distribution has been resumed, including for each drug so listed the NDC number, the identity by established name and by proprietary name, the date of resumption, and any other information required by § 207.25(b) not previously submitted.

(4) Any material change in any information previously submitted.

(b) When no changes have occurred since the previously submitted list, no report is required.

§ 207.31 Additional drug listing information.

(a) In addition to the information routinely required by §§ 207.25 and 207.30, FDA may require submission of the following information by letter or by Federal Register notice:

(1) For a particular prescription drug so listed that the registrant regards as not subject to section 505, 506, or 507 of the act, upon request by FDA for good cause, a copy of all advertisements.

(2) For a particular drug product so listed that the registrant regards as not subject to section 505, 506, 507, or 512 of the act, upon a finding by FDA that it is necessary to carry out the purposes of the act, a quantitative listing of all ingredients.

(3) For a particular drug product, upon request by FDA, a brief statement of the basis for the registrant's belief that the drug product is not subject to section 505, 506, 507, or 512 of the act.

(4) For each registrant, upon a finding by FDA that it is necessary to carry out the purposes of the act, a list of each listed drug product containing a particular ingredient.

(b) It is requested but not required that a qualitative listing of the inactive ingredients be submitted for all listed drugs in the format prescribed in Form FDA-2657 (Drug Product Listing).

(c) It is requested but not required that a quantitative listing of the active ingredients be submitted for all drugs listed that are subject to section 505, 506, 507, or 512 of the act or section 351 of the Public Health Service Act.

§ 207.35 Notification of registrant; drug establishment registration number and drug listing number.

(a) FDA will provide to the registrant a validated copy of Form FDA-2656 (Registration of Drug Establishment) as evidence of registration. This validated copy will be sent to the mailing address shown on the form. FDA will assign a permanent registration number to each drug establishment registered in accordance with these regulations.

(b) Using the National Drug Code (NDC) numbering system, FDA assigns a drug listing number to each drug or class of drugs listed as follows:

(1) If a drug is already listed in the National Drug Code System or in the National Health Related Items Code System, the number is the same as that assigned under those codes. FDA adds a lead zero to the first three characters of the code, which identifies the manufacturer or distributor, to expand the "Labeler Code" segment to four characters. The National Drug Code, Product Code, and Package Code configurations used to describe these drugs, or any drugs added to the product line, remain the same, i.e., a four-character Product Code and a two-character Package Code. A manufacturer or distributor may either retain alphanumeric characters that are already used in the Product Code and Package Code segments of the National Drug Code or convert these alphanumeric characters to all numeric digits. The manufacturer or distributor shall inform FDA of a decision to convert the alphanumeric characters to all numeric digits.

(2) If a registered establishment or distributor has not previously participated in the National Drug Code System or in the National Health Related Items Code System, FDA uses the National Drug Code numbering system in assigning a number, as follows (only numerals are used):

(i) The first 5 numeric characters of the 10-character code identify the

manufacturer or distributor and are known as the Labeler Code. FDA will expand the Labeler Code from five to six numeric characters when the available five-character code combinations are exhausted. FDA will assign Labeler Code numbers and provide them to the registrant along with the validated copy of Form FDA-2656. Any registered firm that does not have an assigned Labeler Code will be assigned one when registration and listing information are submitted.

(ii) The last 5 numeric characters of the 10-character code identify the drug and the trade package size and type. The segment that identifies the drug formulation is known as the Product Code and the segment that identifies the trade package size and type is known as the Package Code. The manufacturer or distributor will assign the Product Code and the Package Code before drug listing and include these codes in Form FDA-2657 (Drug Product Listing). The manufacturer or distributor may use either of two methods in assigning the Product and Package Codes: a 3-2 Product-Package Code configuration (e.g., 542-12) or a 4-1 Product-Package Code configuration (e.g., 5421-2). A manufacturer or distributor with a given Labeler Code shall use only one such Product-Package Code configuration and shall use this same configuration in assigning the Product-Package Codes for all drugs included in the drug listing. The manufacturer or distributor shall report to FDA the Product-Package Code configuration used in assigning these codes.

(iii) If the drug formulation is a custom premix intended for use in the manufacture of an animal feed, FDA assigns a separate Product Code only for each variation of level of active drug ingredient.

(3) FDA requests but does not require that the NDC number appear on all drug labels and in other drug labeling, including the label of any prescription drug container furnished to a consumer. If the NDC number is shown on a drug label, it shall be placed as follows:

(i) The NDC number shall appear prominently in the top third of the principal display panel of the label on the immediate container and of any outside container or wrapper. Instead of appearing in the top third of the label, the NDC number may appear as part of and contiguous to any bar-code symbol for any drug product if two conditions are met. First, the symbol appears prominently on the immediate container and on any outside container or wrapper and in a conspicuous location; this condition is not satisfied by the appearance of the symbol only on the

natural bottom of a container or wrapper. Second, the bar-code symbol is compatible with the NDC, i.e., the symbol provides a format capable of encoding the numeric characters of an NDC Number. The term "principal display panel," as used in this paragraph, means that part of a label most likely to be displayed, presented, shown, or examined under customary conditions of display to the consumer (for over-the-counter drug products) or to the dispenser (for prescription drug products).

(ii) The NDC number shall be preceded by the prefix "NDC" or "N" when it is used on a label or in labeling. The prefix used for a drug product shall be used consistently on the label of the immediate container, outside container, or wrapper, if any, and on other labeling for that drug product.

(iii) The Product-Package Code configuration shall be indicated and the segments of the number shall be separated by a dash, e.g., NDC 15643-542-12 or N 15643-542-12.

(iv) All 10 characters shall appear and the leading zeros in any segment of the NDC number shall be shown, except that leading zeros may be omitted from any segment of the NDC number when the NDC number is used for product identification by direct imprinting on dosage forms or in the case of containers too small or otherwise unable to accommodate a label with sufficient space to bear both required and optional labeling information.

(v) The placing of the assigned NDC number on a label or in other labeling does not require the submission of a supplemental new drug application, supplemental new animal drug application, or supplemental antibiotic application (antibiotic Form 5 or 6).

(4)(i) If any change occurs in those product characteristics that clearly distinguish one drug product version from another, the registrant shall assign a new NDC number to the new product version and submit that information to FDA. Such a change includes, but is not limited to, a change in: active ingredient(s); strength or concentration of active ingredient(s); dosage form; route of administration, if it also includes a change in product formulation; and product name. If, by notice in the *Federal Register*, FDA requires a change in drug product characteristics and determines the change will require assignment of a new product code to the reformulated product, FDA will announce its determination in the *Federal Register* publication that requires the change, setting forth its reasoning and justification for its determination. If a

change only in the trade package is involved, the registrant may revise the trade package code without the assignment of a new product code segment, but shall inform FDA of the new code for the trade package and the characteristics of the new trade package.

(ii) When a registrant has discontinued a drug product, its product code may be reassigned to another drug product 5 years after the expiration date of the discontinued product, or, if there is no expiration date, 5 years after the last shipment of the discontinued product into commercial distribution. Reuse of product codes may occur, under the specified conditions, regardless of the NDC, Product Code, and Package Code configuration used.

(c) Although registration and drug listing are required to engage in the drug activities described in § 207.20, validation of registration and the assignment of a drug listing number do not, in themselves, establish that the holder of the registration is legally qualified to deal in such drugs.

§ 207.37 Inspection of registrations and drug listings.

(a) A copy of the Form FDA-2656 (Registration of Drug Establishment) filed by the registrant will be available for inspection in accordance with section 510(f) of the act, at the Bureau of Drugs, Registration Section (HFD-315), Food and Drug Administration, 5600 Fishers Land, Rockville, MD 20857. In addition, there will be available for inspection at each of the FDA district offices the same information concerning firms within the geographical area of each district office. Upon request and receipt of a self-addressed stamped envelope, the Bureau of Drugs' Registration Section or appropriate FDA district office will verify registration number or provide the location of a registered establishment.

(1) The following types of information submitted under the drug listing requirements will be available for public disclosure when compiled:

- (i) A list of all drug products.
- (ii) A list of all drug products arranged by labeled indications or pharmacological category.
- (iii) A list of all drug products arranged by manufacturer.
- (iv) A list of a drug product's active ingredients.
- (v) A list of drug products newly marketed or for which marketing is resumed.
- (vi) A list of drug products discontinued.
- (vii) Labeling.
- (viii) Advertising.

(ix) Information that has become a matter of public knowledge.
 (x) A list of drug products containing a particular active ingredient.

(2) The following types of information submitted in accordance with the drug listing requirements will not be available for public disclosure (except that any of the information will be available for public disclosure if it has become a matter of public knowledge or if FDA finds that confidentiality would be inconsistent with protection of the public health):

(i) Any information submitted as the basis upon which it has been determined that a particular drug product is not subject to section 505, 506, 507, or 512 of the act.

(ii) A list of a drug product's inactive ingredients.

(iii) A list of drugs containing a particular inactive ingredient.

(b) Requests for information about registrations and drug listings of an establishment should be directed to Bureau of Drugs, Registration Section (HFD-315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 or, with respect to the information described in paragraph (a) of this section, to the FDA district office responsible for the geographical area in which the establishment is located.

§ 207.39 Misbranding by reference to registration or to registration number.

Registration of a drug establishment or drug wholesaler, or assignment of a registration number, or assignment of a NDC number does not in any way denote approval of the firm or its products. Any representation that creates an impression of official approval because of registration or possession of registration number or NDC number is misleading and constitutes misbranding.

Subpart D—Procedure for Foreign Drug Establishments

§ 207.40 Drug listing requirements for foreign drug establishments.

(a) Every foreign drug establishment whose drugs are imported or offered for import into the United States shall comply with the drug listing requirements in Subpart C of this part, unless exempt under Subpart B of this part, whether or not it is also registered.

(b) No drug, unless it is listed as required in Subpart C of this part, may be imported from a foreign drug establishment into the United States except a drug imported or offered for import under the investigational use provisions of § 312.1. Foreign drug

establishments shall submit the drug listing information in the English language.

(c) Every foreign drug establishment shall submit, as part of drug listing, the name and address of the establishment and the name of the individual responsible for submitting drug listing information. The establishment shall report to FDA any changes in this information at the intervals specified in § 207.30(a) for updating drug listing information.

Effective date: This regulation is effective July 7, 1980.

(Secs. 201, 502, 505, 506, 507, 510, 512, 701(a) and 704, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); and Pub. L. 410, sec. 351, 58 Stat. 702 as amended [42 U.S.C. 262])

Dated: May 29, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-17046 Filed 6-5-80; 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

AGENCY: Food and Drug Administration, HHS.

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 for Custom Feed Services Corp., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine feeds, and to add this firm to the list of approved NADA sponsors.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Custom Feed Services Corp., 2100 N. 13th St., Norfolk, NE 68701, is sponsor of NADA (121-200) submitted on its behalf by Elanco Products Co. The NADA provides for use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Products Co.'s approved

NADA 12-491. Use of the data in NADA 12-491 to support this NADA 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, approval of this NADA has been treated as would an approval of a Category II supplement and does not require reevaluation of the safety and effectiveness data in NADA 12-491.

Custom Feed Services Corp. has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released for public examination at the office of the Hearing Clerk (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.

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), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name, address and drug labeler code

* * * * *

Custom Feed Services Corp., 2100 N. 13th St., Norfolk, NE 68701.—017473

* * * * *

(2) * * *

Drug labeler code, firm name and address

* * * * *

017473—Custom Feed Services Corp.,
2100 N. 13th St., Norfolk, NE 68701.

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(68) to read as follows:

§ 558.625 Tylosin.

(b) * * *
(68) To 017473: 10 grams per pound; paragraph (f)(1)(vi) (a) of this section.

Effective date. This amendment is effective June 6, 1980.

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

Dated: May 29, 1980.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 80-16891 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

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 supplemental new animal drug application (NADA) filed for Fasco Mills Co., providing for safe and effective use of a 2-gram-per-pound tylosin premix for making complete swine feeds.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health and Human Services, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Fasco Mills Co., Box 70, Route 34 East, Mendota, IL 61342, is the sponsor of a supplemental NADA (96-839) providing for use of a premix containing 2 grams of tylosin (as tylosin phosphate) per pound, in addition to an existing approval for use of a 0.8-gram-per-pound premix, 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 12-491. Use of the data in NADA 12-491 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 (see the *Federal Register* of December 23, 1977 (42 FR 64367)), approval of this supplemental NADA does not require reevaluation of the safety and effectiveness in NADA 12-491 or in NADA 96-839.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 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 is released for public examinations at the office of the Hearing Clerk (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.

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), Part 558 is amended in § 558.625, by revising paragraph (b)(23) to read as follows:

§ 558.625 Tylosin.

(b) * * *
(23) To 030804: 2 and 0.8 grams per pound; paragraph (f)(1)(vi)(a) of this section.

Effective date. This amendment is effective June 6, 1980.

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

Dated: May 29, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-16936 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 573

[Docket No. 79F-0394]

Food Additives Permitted in Feed and Drinking Water of Animals; Acrylamide-Acrylic Acid Resin

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for a revised specification for acrylamide-acrylic acid resin used as a thickener and suspending agent in nonmedicated

aqueous suspensions for animal feeds. Betz Laboratories, Inc., filed a petition for the revised specification.

EFFECTIVE DATE: June 6, 1980; objections by July 7, 1980.

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:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) announced in a notice published in the *Federal Register* of November 16, 1979 (44 FR 66068), that a petition (FAP-2175) had been filed by Betz Laboratories, Inc., 4636 Somerton Rd., Trevoise, PA 19047, proposing that § 573.120 Acrylamide-acrylic acid resin be amended to provide for a revised molecular weight specification, minimum of 3 million. The use of the product as a thickener and suspending agent in nonmedicated aqueous suspensions for animal feeds would not be changed.

FDA evaluated the data in the petition and other relevant material and concluded that the food additive regulations should be amended as set forth in the petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 573 is amended by revising § 573.120(b)(1) to read as follows:

§ 573.120 Acrylamide-acrylic acid resin.

(b) * * *
(1) A minimum molecular weight of 3 million.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 7, 1980, 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 intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. 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 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 6, 1980.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: May 28, 1980.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 80-16939 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[T.D. 7700]

26 CFR Parts 1 and 7

Income Tax; Amortization of Certain Rehabilitation Costs for Certified Historic Structures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to amortization of certain rehabilitation expenditures for certified historic structures. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. The regulations affect all persons desiring to amortize such rehabilitation expenditures and provide them with the guidance needed to comply with the law.

DATE: The regulations are effective for additions to capital account after June 14, 1976, and before June 15, 1981.

FOR FURTHER INFORMATION CONTACT: H. B. Hartley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC 20224, Attention: CC:LR:T, 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1978, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7), all under section 191 of the Internal Revenue Code of 1954 ("Code") (43 FR 38731). The amendments were proposed to conform the regulations to section 2124(a)(1) and (3)(B) of the Tax Reform Act of 1976 (90 Stat. 1916).

Technical amendments were made to section 191 of the Code by section 701(f) (1), (2), and (7) of the Revenue Act of 1978 (92 Stat. 2900, 2903). These statutory amendments made by the Revenue Act of 1978 were only technical changes and prescribe rules favorable to taxpayers. For this reason and because there is a need for immediate guidance for taxpayers, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring further notice of proposed rulemaking, opportunity for public participation, and delay in effective date are found to be inapplicable to changes to the August 1978 proposed regulations necessitated by these statutory changes.

A public hearing on the proposed regulations was held on March 15, 1979. After consideration of all written and oral comments regarding the proposed amendments, final regulations are adopted by this Treasury decision.

Provisions of the Regulations

Under section 191, owners of historic structures certified by the Secretary of the Interior may elect to amortize the amortizable basis attributable to costs incurred in certified rehabilitation of these structures. If this election is made, the rehabilitation costs are amortized over a 60-month period rather than depreciated over their actual useful life. Amortization deductions under section 191 may not be claimed if any part of the costs of the certified rehabilitation are deducted under any other provision of the Internal Revenue Code. However, allowable depreciation deductions of the basis of the historic structure, exclusive of the rehabilitation costs, may be continued during the amortization period. If an election involving the historic structure is made under section 191, no election may be made under section 167(o).

The election is available to owners, life tenants, and certain lessees of certified historic structures. In general, these persons may amortize only those expenditures made while they own (or lease) the property and only those

expenditures for rehabilitation of an existing historic structure.

In the event of a disposition of the property, part or all of the amounts deducted under section 191 may be recaptured as ordinary income. In addition, the difference between rapid amortization and straight-line depreciation (based on the actual useful life of the structure) may be subject to the minimum tax.

All costs of a certified rehabilitation are generally amortizable. However, costs attributable to nondepreciable portions of a certified historic structure (where only part of the structure is used in a trade or business or for the production of income) and costs of new construction associated with a certified rehabilitation are not amortizable.

To elect the 60-month amortization, the taxpayer indicates that the election is being made as directed on the taxpayer's return for the taxable year in which falls the first month of the amortization period chosen pursuant to section 191(a). The election may be made after a request has been made for, but before, certification of the project by the Department of the Interior. If the election is made before final certification is received, proof of certification is to be submitted with the first tax return filed by the taxpayer after receipt of the certification. If proof of certification is not submitted within 30 months after commencement of the amortization period, the taxpayer may be asked to agree to an extension of time for assessment of additional tax for the period for which amortization deductions are claimed.

Once made, the election may be discontinued at any time by filing written notice with the taxpayer's income tax return for the year in which amortization is to cease.

Additional Considerations

These regulations are needed in order to provide guidance to the public as well as to government employees responsible for the implementation of section 191 of the Code. Considering both the direct and indirect effects of these regulations, it is believed that they satisfactorily implement section 2124(a) (1) and (3) of the Tax Reform Act of 1976, as amended by section 701(f) (1), (2), and (7) of the Revenue Act of 1978. Evaluation of the effectiveness of the regulations after issuance will be based upon comments received from offices within the Internal Revenue Service and the Treasury Department, the Department of the Interior, other government agencies, and the public.

Public Comments

Twenty-five comments were received in response to the proposed regulations. As a general matter, these comments pointed out that the proposed regulations did not reflect changes made in the law by the Revenue Act of 1978. The technical amendments made by that Act (which became law after publication of the proposed regulations) have been incorporated at the appropriate places throughout the regulations. See, for example, § 1.191-1(b)(3) on the relation of section 191 to other Code provisions, § 1.191-1(c)(2)(vi) on rules for lessees, § 1.191-1(e) on the relation of section 191 to the minimum tax, and §§ 1.191-2(a) and (b) for amended definitions of "certified historic structure" and "registered historic district." One comment urged permitting separate amortization periods to be established for any expenditures made during a given month. This suggestion was not adopted since section 167, which applies if section 191 is not elected, requires the presence of a component part of a structure for depreciation to be allowable. This rule has been restated in § 1.191-1(b)(1)(i) to remove any doubt concerning whether a component part is required for a separate amortization period to be established. Another comment requested express provisions governing demolition undertaken as part of certified rehabilitation. New § 1.191-1(b)(4) and § 1.191-2(e)(7) have been added to provide specific rules on demolition. Under new § 1.191-1(b)(4), if an historic structure is expanded to the site of another demolished historic structure by certified rehabilitation, section 191 treatment is still available despite the provisions of section 167(n). Portions of the rehabilitated historic structure actually on the demolition site would, however, be subject to the limitations of section 167(n). This position was adopted because it is believed that the requirement that the rehabilitation be certified by the Secretary of the Interior will insure protection of all structures intended to be protected by section 167(n). Two comments requested clarification of the rule contained in the proposed regulations making certain transferees of certified historic structures eligible for section 191 treatment. Section 1.191-1(b)(6) was amended to clarify that, if amortization deductions are discontinued during the 60-month period, the remaining depreciable life of the structure is determined at time amortization ceases. Section 1.191-1(c)(2)(iii) was amended to indicate that transferees at the completion of rehabilitation are eligible for section 191

treatment even where the structure was not taken out of service during rehabilitation. Another change to § 1.191-1(c)(2)(iii) clarifies that, for a transferee to elect section 191, the transfer to him must occur before the property is placed in service after rehabilitation, even though the transferor could elect to delay amortization deductions until the first month of the following taxable year and had in fact claimed no amortization deductions at the time of the transfer. In response to other requests, § 1.191-1(c)(viii) was amended to accord treatment as lessees to all concessionaires where Federal government restrictions prevent leasing the property. Two comments requested extension of section 191 treatment to ships that are individually listed on the National Register of Historic Places whether or not they are permanently anchored so as to become real property. This suggestion was not adopted because section 191, as is true of all of section 2124 of the Tax Reform Act of 1976 is applicable only to real property. See § 1.191-2(c). Some comments expressed confusion as to the meaning of a "reconstruction" of an historic structure which is excluded from section 191 treatment. This term had been used because it is used in Interior Department guidelines. To eliminate this confusion, however, § 1.191-2(d) was amended to substitute the term "reproduction" for "reconstruction." Thus, "reproductions" of historic structures are excluded from section 191 treatment. Section 1.191-2(e)(1) was expanded in response to comments which revealed a misunderstanding of the respective roles of the Internal Revenue Service and the Department of the Interior in implementing section 191. That paragraph now expressly states that the Interior Department certifies that standards of historic character are met while the Internal Revenue Service determines other rules governing eligibility for section 191 treatment. Section 48 on investment tax credits for rehabilitated buildings contains a requirement that 75 percent of the existing exterior walls of a structure remain after rehabilitation. Similarly, regulations under 167(k) state that if one or more outer walls and the internal structural framework of a building are replaced, expenditures are generally attributable to new construction. In response to the comments and to provide more consistent rules throughout the Code, § 1.191-2(e)(5) now contains a comparable rule. Section 1.191-2(e)(5) was also amended to indicate that buildings may be

disassembled and reassembled and a part of certified rehabilitation because this is a frequent rehabilitation technique. In response to a request from the Department of the Interior, new §§ 1.191-2(e)(6) and (7) were added to provide rules on costs of relocating structures and demolition expenses incurred as part of certified rehabilitation. One comment questioned the rule on when additions to capital account are made which is contained in § 1.191-2(e)(8). To provide more nearly equal treatment for rehabilitations begun before June 14, 1976, and those ending after June 14, 1981, § 1.191-2(e)(8) was changed to permit amortization of costs attributable to completed components of rehabilitations still in progress on June 14, 1981. A conforming paragraph, § 1.191-3(b)(4), was added to permit elections to be made after June 14, 1981, for expenditures attributable to these completed components.

Drafting Information

The principal author of these regulations was H. B. Hartley 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.

Accordingly, amendments to the regulations (26 CFR Parts 1 and 7), are hereby adopted as set forth below.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following new sections are added immediately after § 1.188-1.

§ 1.191-1 Amortization of certain rehabilitation costs for certified historic structures.

(a) *In general.* Section 191 allows an owner of a certified historic structure who rehabilitates that structure to elect to amortize over a 60-month period certain expenditures attributable to certified rehabilitation. The election may be made only if the certified historic structure (as defined in § 1.191-2(a)) and the improvements made are otherwise of a character subject to depreciation under section 167. In general, only those rehabilitation expenditures which result in additions to capital account after June 14, 1976, and before June 15, 1981, are eligible for this special amortization procedure. To

qualify for the election, the rehabilitation must be certified by the Secretary of the Interior to the Internal Revenue Service as consistent with the historic character of the structure. See § 1.191-2(d) for the definition of certified rehabilitation. Along with the amortization deductions, the taxpayer may continue otherwise allowable depreciation deductions of the basis of the structure, exclusive of rehabilitation costs which are a part of the amortizable basis (as defined in § 1.191-2(e)).

(b) Allowance of deduction—(1)

Determination of amortization period—

(i) *General rule.* The taxpayer may elect to begin the 60-month amortization period with the month following the month in which the amortizable basis is acquired, or with the first month of the succeeding taxable year. Generally amortizable basis must be acquired after June 14, 1976, and before June 15, 1981. For purposes of this section, the month in which the amortizable basis is acquired is the latest of the month in which the work (or a component part of the work) is completed, the month in which costs are added to capital account, or the month in which depreciation deductions under section 167 would be first allowable with respect to the structure. See, however, § 1.191-2(e)(8) for special rules for certified rehabilitations in part occurring outside the effective period of section 191. No amortization deduction may be claimed before a building is used (or held for use) in a trade or business or for the production of income.

(ii) *Multiple amortization periods.*

After a structure is eligible for depreciation, a separate amortization period may be established for each month's expenditures and completed work as that portion of the rehabilitation is placed in service in a depreciable use. The completed work for which a separate amortization period is established must, however, be an identifiable separate component of the entire project and not simply progress payments upon partial completion of overall rehabilitation activities. For example, a single structure could have a series of amortization periods based upon the component parts of the work completed and expenditures made for those component parts during each month in which the certified rehabilitation is in progress if the structure were already depreciable before completion of the rehabilitation activities. Alternatively, the taxpayer may treat his entire amortizable basis as acquired upon completion of the entire rehabilitation project rather than

allocating amounts to each month in which the costs of component parts could have been added to basis. This treatment applies although rehabilitation extends over more than one taxable year, if there is no interruption in rehabilitation activities. If the taxpayer chooses to delay amortization deductions until completion of an entire project, then depreciation deductions with respect to any portion of the rehabilitation expenditures are treated as not allowable until the completion.

(2) *Amount of deduction.* The allowable deduction for each month is determined by dividing the amortizable basis as of the last day of the month by the number of months (including the current month) which remain in the 60-month amortization period. This calculation is repeated for each month of the 60-month period to determine each month's allowable amount of amortization deduction.

(3) *Relation to section 167(o) and other provisions.* If an election involving a certified historic structure is made under section 191, no election may be made under section 167(o) either for the same rehabilitation or for any subsequent rehabilitation of the same structure undertaken by the taxpayer making an election under section 191. Additionally, no election is permitted under section 191 if depreciation deductions or credits against tax based upon any part of the costs qualifying for amortization under section 191, are at any time claimed (or allowable) under any depreciation or other provision of the Internal Revenue Code of 1954. However, this limitation with respect to investment tax credits under section 38 applies only to structures placed in service after October 31, 1978. If section 191 treatment is timely elected on a structure placed in service after October 31, 1978, the investment tax credit under section 38 is considered not to have been allowable with respect to that structure.

(4) *Expansions of rehabilitated structures to sites of demolished structures.* If a certified rehabilitation results in expansion of a certified historic structure to the site of a separate certified historic structure which is demolished as part of the rehabilitation, section 191 treatment is not available with respect to any expenditures attributable to that demolition or to any expenditures attributable to portions of the rehabilitated historic structure actually located on the demolition site. (See § 1.191-2(e)(7).) Subject to this restriction, however, section 191

treatment is available for expenditures for certified rehabilitation of the remaining historic structure which form a part of amortizable basis under § 1.191-2(e). See section 167(n) for special rules on depreciation of structures on sites previously occupied by certified historic structures and section 280B for rules on demolition costs.

(5) *Depreciation upon notice to discontinue amortization deductions.* If the taxpayer chooses to discontinue amortization deductions, the unamortized rehabilitation costs are added to the adjusted basis of the structure as of the first day of the month for which the notice to discontinue amortization deductions is effective. Deductions for depreciation of the structure under section 167 may then be computed on the resulting adjusted basis beginning at that time and are based on the estimated remaining useful life of the rehabilitated structure, determined as of the date amortization deductions cease.

(6) *Examples.* The provision of this paragraph (b) may be illustrated by the following examples:

Example (i). A, a calendar-year taxpayer, secured the necessary certifications from the Secretary of the Interior and began rehabilitation of a 100-year old townhouse previously rented as a one-family dwelling, in order to convert it into two equally-sized apartments. In June 1977, the exterior work was completed, and A paid his contractor the cost of \$20,000. Apartment #1 was completed and rented in September, and the cost of \$40,000 was paid. In November, Apartment #2 was finished and rented, and A paid the cost of \$47,500. A elects to use the 60-month amortization allowed under section 191. A chooses to establish separate amortization periods for each of these phases of the work, each period beginning at the earliest possible date. These periods and the amortizable basis for each period are as follows:

Apartment No. 1, and Allocable Portion of Exterior, beginning October 1, 1977, \$50,000 basis.

Apartment No. 2, and Allocable Portion of Exterior, beginning December 1, 1977, \$57,500 basis.

If A had chosen to do so, A could have selected an amortization period for the entire amortizable basis of \$107,500 beginning on December 1, 1977, or January 1, 1978.

Example (ii). B owns a 19th Century warehouse building which is listed in the National Register. In a certified rehabilitation B converted the building into a small shopping mall at a cost of \$480,000. The rehabilitation was begun in January 1977, and was completed, placed in service, and paid for in November 1977. B elected to claim amortization deductions under section 191 and to begin the amortization period in December 1977. B's allowable amortization deductions are \$8,000 per month, computed as follows:

December 1977: \$480,000 amortizable basis/60 months in period = \$8,000 deduction.
January 1978: \$472,000 amortizable basis/59 months in period = \$8,000 deduction.

(c) *Person to claim deduction*—(1) *In general.* Except as otherwise provided in this paragraph (c)—

(i) Only the owner of a fee-simple interest in a certified historic structure and the site on which the structure is located may elect to amortize certified rehabilitation costs; and

(ii) The electing owner must have acquired ownership of the property before commencement of rehabilitation activities, the costs of which are to be amortized.

An electing owner need not have owned the property before commencement of all rehabilitation activities. Where the property is not acquired before rehabilitation begins, however, only those costs incurred subsequent to the acquisition of ownership of the site and structure may be considered for purposes of amortization deductions under section 191.

(2) *Exceptions and special rules*—(i) *Life tenant and remainderman.* For purposes of section 191, the holder of a life estate in property is considered to own the property. A remainderman taking the property on the death of the life tenant is permitted to amortize only those rehabilitation costs which are incurred for improvements begun following termination of all preceding interests in the property and paid by the remainderman.

(ii) *Owners of joint or undivided interests in historic structures.* Joint tenants, tenants by the entirety, tenants in common, and owners of other joint or undivided interests in a certified historic structure may, under section 191, amortize expenditures made for certified rehabilitation. The right of any one such owner to make an election under section 191 is not dependent upon any other co-owner making such an election. Each electing owner's amortizable basis consists of the full amount of expenditures actually made by that individual owner for certified rehabilitation. See paragraph (c)(2)(v) of this section for rules on partnerships.

(iii) *Certain transferees of historic structures.* If expenditures for certified rehabilitation are in fact made by the owner of a certified historic structure, and if one or more transferees then acquire the ownership of the rehabilitated structure directly from that owner before the structure is placed in service in its rehabilitated use, the transferees, solely for purposes of section 191, may be treated as having made the rehabilitation expenditures at

the later of the time the structure is acquired or the rehabilitation is completed. Transferees acquiring structures in transfers occurring after the structure is placed in service after its rehabilitation but before the first day of the following taxable year, are not eligible for section 191 treatment, because depreciation deductions for rehabilitation costs are allowable to the transferor before the transfer. The amount of rehabilitation expenditures treated as made by the transferees under this subdivision (iii) is the lesser amount of—

(A) The rehabilitation expenditures actually made before the date on which the transferee acquired ownership of the structure, or

(B) The portion of the transferee's cost or other basis for the property (determined according to the rules of section 167) which is attributable to rehabilitation expenditures made before the date on which the transferee acquired ownership of the structure.

(iv) *Estates and trusts.* The amortization deduction provided by section 191 is allowable to estates and trusts; see sections 642(f) and 1.642(f)-1.

(v) *Partnerships.* Partnerships owning certified historic structures may elect to amortize expenditures for certified rehabilitations made by the partnerships. Any election for partnership property must be made by the partnership and not by the partners individually.

(vi) *Lessees of historic structures.* A lessee of an historic structure (including a structure which is not depreciable to the lessor) which is certified by the Secretary of the Interior and which is used by the lessee in a depreciable use can elect under section 191 to amortize rehabilitation expenditures actually made by the lessee. A lessee can make an election under section 191 only if the remaining term of the lease equals or exceeds both a period of 30 years and the actual useful life of the improvements constituting the certified rehabilitation. The lessee's remaining lease term is measured as of the date on which the full certified rehabilitation is completed. Under section 191(f)(2), renewal periods are not treated as part of the remaining lease term. However, if, before the date on which the full rehabilitation is completed, the lessee becomes obligated for periods beyond the current term of the lease to the same extent that the lessee is obligated during the current term, those additional periods are considered to be part of the current lease term and not renewal periods.

(vii) *Concessionaries from governmental entities.* For purposes of

section 191 and this section, holders of concession contracts on properties owned by the Federal government or by any State or local government who do not lease the property because of express Federal government restrictions, are, nevertheless, considered to be lessees.

(d) *Recapture.* If a taxpayer disposes of property for which the taxpayer has claimed amortization deductions under section 191, part or all of any gain on the disposition may be recaptured as ordinary income under the applicable provisions of the Code.

(e) *Minimum tax on preference income under section 56.* Amortization deductions under section 191 are items of tax preference for purposes of the minimum tax to the extent the deductions exceed the amount that may be claimed under straight-line depreciation using the actual useful life of the property. See section 57(a)(2). For special rules for elevators and escalators, see section 57(a)(1).

§ 1.191-2 Definitions and special rules.

(a) *Certified historic structure.* A certified historic structure is a building or other structure which is of a character subject to depreciation under section 167 and is either—

(1) Listed in the National Register of Historic Places, or

(2) Located in a registered historic district and certified by the Secretary of the Interior as being of historic significance to the district.

Under section 191, a structure is considered to be of a character subject to depreciation only if its first use following completion of certified rehabilitation is a use in a trade or business or for the production of income.

(b) *Registered historic district.* A registered historic district is—

(1) A district listed in the National Register of Historic Places, or

(2) A district designated under a statute (including an ordinance) of a State (or local government), but only if the Secretary of the Interior, certifies that—

(i) The statute contains criteria which achieve the purpose of preserving historically significant buildings; and

(ii) The district meets substantially all of the requirements for districts to be listed in the National Register of Historic Places.

(c) *Structure.* A structure is a specific building or other man made construction which constitutes depreciable real property under section 167 of the Code. The term structure does not include ships, other vessels, aircraft, railway cars, or other construction which does

not constitute real property even though the other items are listed in the National Register of Historic Places. The term structure also does not include site work or other related items associated with the building or other construction. Examples of structures include rental housing, office buildings, lighthouses, hotels, factories, and bridges.

(d) *Certified rehabilitation.* A certified rehabilitation consists of improvements to or restoration of an existing certified historic structure, which the Secretary of the Interior certifies to be consistent with Interior Department standards for rehabilitation. Reproduction (as opposed to restoration) of an historic structure is not a certified rehabilitation even in cases where the reproduction is listed in the National Register upon its completion since it does not enhance the historic value of an existing historic structure.

(e) *Amortizable basis.*—(1) *In general.* The amortizable basis of a certified historic structure consists of any otherwise depreciable additions to the capital account of the structure during the effective period of section 191. See § 1.191-2(e)(8) for rules on the time amounts are added to capital account and on the effective period of section 191. Only amounts expended by the electing person directly for rehabilitation of existing historic structures are part of amortizable basis. Amortizable basis does not include new construction even though the certification of rehabilitation by the Secretary of the Interior certifies that the entire project is consistent with Interior Department standards and makes no distinction between rehabilitation of the existing historic structure and new construction relating to the historic structure. Amortizable basis also does not include certain additions which do not meet the requirements of paragraphs (d) and (e) of this section even though such additions are considered under local law to be rehabilitation. For purposes of section 191, architectural and engineering fees, real estate commissions, site survey fees, legal expenses, insurance premiums, developers' fees, and other construction-related costs are a part of amortizable basis. Any costs for which a deduction is claimed under any other section of the Code or for which specific provision is made in another section of the Code (such as section 189 on construction period interest and taxes or section 266 on carrying charges) are not a part of amortizable basis. Any costs which must be added to the basis of land associated with the historic structure,

rather than depreciated under section 167, are not a part of the amortizable basis.

(2) *Partially depreciable property.* A certified historic structure may be depreciable only in part, as, for example, a private residence which includes a separate rental apartment. In such case, only that portion of the costs of the certified rehabilitation which is attributable to the portion of the total structure that is depreciable property under section 167 is a part of amortizable basis. The determination of the portion of the expenditures which is included in amortizable basis is made according to the rules of section 167. The remaining certified rehabilitation costs must be added to the nondepreciable portion of the basis of the historic structure.

(3) *Rehabilitations which include new construction.* If a rehabilitation project only partially qualifies for amortization deductions because a portion of the project is new construction (as defined in this paragraph (e)), the apportionment rules of section 167 apply to determine the amount of the taxpayer's amortizable basis. For example, the cost of a single heating system used both for a rehabilitated historic structure and for a nonhistoric new wing added thereto would be apportioned between the amortizable rehabilitation costs and nonamortizable new construction costs.

(4) *Modernization of existing structure included.* Expenditures for structural modernization of an existing historic structure, which are made in a rehabilitation certified by the Secretary of the Interior to be consistent with the historic character of the structure, are a part of amortizable basis. Examples of such expenditures include the costs of modern plumbing and electrical wiring and fixtures, heating and air conditioning systems, elevators, escalators, and improvements required by local building or fire codes. The addition of an attached facility exclusively for elevators, fire stairs, or barrier-free access will also be considered rehabilitation, if the construction of elevators, fire stairs, or barrier-free access within the existing structure is prohibited by the Secretary of the Interior as destructive of the historic character of the structure. Carpeting, draperies, office equipment, furniture (even where it is built in), nonpermanent (demountable) walls or partitions, and other similar items of personal property are not a part of amortizable basis.

(5) *New construction excluded.* Expenditures attributable to new construction associated with a certified rehabilitation are not a part of

amortizable basis. Whether expenditures are attributable to the rehabilitation of an existing structure, or are attributable to new construction, will be determined upon the basis of all the facts and circumstances. Expenditures will generally be considered attributable to rehabilitation if the foundation and outer walls of the existing building are retained and the costs are attributable to work done within that existing framework. Where the internal structural framework of a building is replaced and one or more outer walls are also replaced, all expenditures are normally attributable to new construction even though the construction may qualify as rehabilitation under local law. The internal structural framework and outer walls are not considered to have been replaced if they are disassembled and reassembled as part of rehabilitation so long as the reassembled framework and outer walls consist of at least 75% of materials original to that structure. Except as otherwise provided in this paragraph (e), any expansion of the existing structure is considered new construction even if the expansion consists of the reproduction of portions of the structure which no longer existed when rehabilitation was started. For example, the addition of a new story to an existing building is new construction. Likewise, related construction such as a garage, sidewalk, or parking lot (or the addition of landscaping) will not be considered rehabilitation even though the related construction may be physically attached to the historic structure.

(6) *Relocation of certified historic structures.* Costs attributable to relocation of an existing certified historic structure (other than costs that are not depreciable under section 167) are included in amortizable basis if the relocation is expressly approved by the Secretary of the Interior.

(7) *Rehabilitations which include expenditures for demolition.* Expenditures attributable to demolition of a portion of an existing certified historic structure as part of certified rehabilitation are included in amortizable basis. However, costs attributable to demolition of related facilities not forming a part of the existing certified historic structure, or to demolition of separate certified historic structures as part of an overall rehabilitation plan, are not included in amortizable basis. For a special rule on costs attributable to demolition of certified historic structures, see section 280B, and for rules limiting depreciation and amortization deductions for

structures constructed or used in whole or in part on the site of a demolished certified historic structure, see section 167(n) and § 1.191-1(b)(4).

(8) *Time when amounts are added to capital account.* Under section 191, expenditures are treated as added to capital account at the time they are actually made (paid or accrued). However, amortizable basis includes only expenditures attributable to component parts of the structure completed before June 15, 1981. Therefore, expenditures for improvements completed after June 14, 1981, are not a part of the taxpayer's amortizable basis even though they may have been paid or accrued prior to that date. In the case of a single and continuous rehabilitation project all of which is certified by the Secretary of the Interior, expenditures for rehabilitation begun before June 14, 1976, but completed and charged thereafter, are a part of the taxpayer's amortizable basis. However, even where there is a single and continuous rehabilitation project, expenditures made for any component part of the improvements completed and charged before June 14, 1976, are not a part of the taxpayer's amortizable basis.

§ 1.191-3 Time and manner of making election.

(a) *In general.* Under section 191(b), an election by the taxpayer (including a partnership) to claim amortization deductions with respect to a certified historic structure is made by so electing at the appropriate place on the taxpayer's return for each year in which amortization deductions are claimed. Additionally, in any year in which falls the first month of a 60-month amortization period selected pursuant to § 1.191-1(b), the amount of amortizable basis from which deductions are to be claimed during that 60-month period must be entered at the appropriate place on the return. If an election is made for more than one certified historic structure, the amount of amortizable basis for each structure must be separately entered on the return.

(b) *Special rules—(1) Letters of certification.* A copy of the letter of certification issued by the Secretary of the Interior qualifying each certified rehabilitation must be submitted with taxpayer's return on which an election to amortize rehabilitation expenditures for any structure is first made. If final certification of a rehabilitation has not been issued by the Secretary of the Interior by the date of the election, a copy of the first page of the application for certification of the completed

rehabilitation work must be attached to the return.

(2) *Certifications not issued and failure to submit proof of certification.* If final certification of rehabilitation has not been issued at the time amortization deductions begin, the electing party must submit a copy of that certification with the first income tax return filed after the receipt by the taxpayer of the certification. If the required notice of certifications is not received by the Internal Revenue Service within 30 months after the date of the commencement of the 60-month amortization period, the electing taxpayer may be requested to consent to an agreement under section 6501(c)(4) extending the period of assessment for any tax relating to the time for which amortization deductions are claimed.

(3) *Election of multiple amortization periods for a single structure.* If the taxpayer elects a separate amortization period for each month in which rehabilitation expenditures for a single structure are made and component work completed, the taxpayer must combine all such elections for periods beginning in one taxable year in a single election, and must enter on the return the total amount of amortizable basis from which deductions are first claimed in that year. If multiple amortization periods are selected for a single structure to commence in different taxable years, a copy of the letter certifying the rehabilitation must be attached to each return on which a deduction for a separate amortization period is first claimed.

(4) *Elections to begin amortization deductions after June 14, 1981.* Notwithstanding the rules of § 1.191-1(b)(1)(i), expenditures for component parts of a rehabilitation project which is not completed and placed in service until after June 14, 1981, are included in amortizable basis if the component parts are completed and the expenditures are added to capital account under § 1.191-2(e)(8) by that date. Amortization deductions for the costs of such component parts are allowable beginning with the month in which the entire rehabilitation would qualify under § 1.191-1(b)(1), but for the expiration of section 191 on June 14, 1981.

(c) *Notice to discontinue amortization—(1) In general.* A notice to discontinue amortization deductions as provided by section 191(c) may be made at any time during the amortization period. This notice is made by a statement attached to the return of the taxpayer filed for the taxable year in

which falls the first month for which the election terminates. In the case of a partnership, the statement is to be attached to the partnership return. The statement must specify the month as of the beginning of which the taxpayer chooses to discontinue amortization deductions. The statement must be filed with the taxpayer's income tax return for the year in which amortization is to cease. In addition, the statement must contain a description clearly identifying the certified historic structure and rehabilitation with respect to which the taxpayer elects to discontinue the amortization deduction. In the case of multiple amortization periods relating to the same structure, an election to discontinue any amortization deductions terminates all amortization periods that have been established. If final certification of the rehabilitation has been issued, a copy of the letter of certification must be attached to the taxpayer's return. If, at the time of the election to discontinue amortization deductions, final certification has not been issued, the taxpayer must submit a copy of the first page of the application for that certification and must submit a copy of the letter of certification with the next succeeding tax return after its receipt. If the required certification has not been issued and 30 months or more have elapsed since amortization deductions under section 191 were first claimed, the taxpayer may be requested to consent to an agreement under section 6501(c)(4) extending the period of assessment for any tax relating to the time for which amortization deductions were claimed.

(2) *Notification by Secretary of the Interior.* For purposes of this paragraph (c), notification to the Secretary or his delegate from the Secretary of the Interior that he has notified the owner of the historic structure that the structure or the rehabilitation no longer meets the requirements for certification has the same effect as notice from the taxpayer electing to terminate amortization deductions as of the first day of the month following the month that the structure or rehabilitation ceased to meet the requirements of section 191.

Par. 2. Section 1.642(f)-1 is amended to read as follows:

§ 1.642(f)-1 Amortization deductions.

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168(d), with respect to a certified pollution control facility as defined in section 169(d), with respect to qualified

railroad rolling stock as defined in section 184(d), with respect to certified coal mine safety equipment as defined in section 187(d), with respect to on-the-job training and child-care facilities as defined in section 188(b), and with respect to certain rehabilitations of certified historic structures as defined in section 191, in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between fiduciaries and the beneficiaries of an estate or trust (see sections 167(h) and 611(b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

§ 7.191-1 [Deleted]

Par. 3. Section 7.191-1 is deleted.

This Treasury decision is issued under the authority contained in sections 191 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1916, 92 Stat. 2900, 68A Stat. 917, 26 U.S.C. 191, 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: May 15, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-17258 Filed 6-4-80; 8:45 am]

BILLING CODE 4830-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 920

General Guidelines and Uniform Standards for Urban Planning and Design of Development Within the Pennsylvania Avenue Development Area

In the issue of Thursday, May 22, 1980, in FR Doc. 80-15492, appearing at page 34752, please make the following corrections:

1. On page 34752, in the first column, under "Dates:", the line which reads "Comments must be received on or before June 15, 1980," should be changed to "Comments must be received on or before June 23, 1980."

2. Also on page 34752, in column two, the ninth line, "provides that requirements . . ." should read "provides the requirements . . ."

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in the Maximum Charge for Legal Services a Holder May Include on a Claim Under the Guaranty—Guaranteed Home and Mobile Home Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations to set \$350 as the maximum for legal services allowable to a holder on a claim under the guaranty. The change is proposed in response to the increasing costs of legal services.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond L. Brodie, Loan Guaranty Service (261), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, 202-389-3668.

SUPPLEMENTARY INFORMATION: Sections 36.4276(b) and 36.4313(b) presently allow \$250 as a maximum for legal services which may be included on a holder's claim for payment under the guaranty on a mobile home or real estate loan. The \$250 maximum has been in effect for mobile home claims since the inception of the VA mobile home program, and in respect to claims on real estate loans, has remained unchanged for more than 30 years. At the \$250 limitation, loan holders in some areas are having difficulty retaining the experienced counsel needed to do judicial foreclosures in a timely way. The Administrator thus has to pay higher claims for accrued interest and permitted advances which result from unnecessary delays. Increasing the maximum should help to speed the action and thus lower the claim paid. Within the \$350 maximum and subject to VA Central Office approval, individual field stations will continue to set limits based on local conditions. The renumbering of the subparagraphs in both sections is an editorial change for simplicity.

As noted above, these regulations were published requesting public comment on January 17, 1980 (45 FR 3330). Ten comments were received in support and none against. Four added that the new maximum should be higher and one felt that the idea behind raising the maximum would be frustrated by the provision limiting the combined fee total for trustee and legal services to \$350. It is VA's belief that the changes in this regulation are reasonable and that a greater increase is not warranted at the

present time. The allocation on an equitable basis of the allowable fee where the services of both a trustee and an attorney are used is the responsibility of the foreclosing mortgagee.

The amendments are adopted under authority of sections 1819(g) and 1820(a)(3) of title 38, United States Code.

Accordingly, the proposed regulations are hereby adopted without change and are set forth below.

Approved: May 29, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 36.4276, paragraph (b) is revised to read as follows:

§ 36.4276 Advances and other charges.

(b) In addition to advances allowable under paragraph (a) of this section, the holder may charge against the proceeds of the sale of the security; against gross amounts collected; or, in the computation of a claim under the guaranty, if lawfully authorized by the loan agreement and subject to § 36.4284, any of the following items actually paid:

(1) Any expense which is reasonably necessary for preservation of the security.

(2) Court costs in a foreclosure or other proper judicial proceeding involving the security.

(3) Other expenses reasonably necessary for collecting the debt, or repossession or liquidation of the security, including a reasonable sales commission to the dealer or sales broker for resale of the security.

(4) Reasonable trustee's fees or commissions paid incident to the sale of real property.

(5) Reasonable amount for legal services actually performed not to exceed 10 percent of the unpaid indebtedness as of the date of the first uncured default, or \$350 whichever is less.

(6) Any other expense or fee that is approved in advance by the Administrator. (38 U.S.C. 1819(g))

In no event may the combined total of the amounts claimed for trustee's fees and legal services (paragraph (b) (4) and (5) of this section) exceed \$350.

2. In § 36.4313, paragraph (b) is revised to read as follows:

§ 36.4313 Advances and other charges.

(b) In addition to advances allowable under paragraph (a) of this section, the holder may charge against the proceeds of the sale of the security; against gross amounts collected; in any accounting to

the Administrator after payment of a claim under the guaranty, in the computation of a claim under the guaranty, if lawfully authorized by the loan agreement and subject to § 36.4321(a), or, in the computation of an insurance loss, any of the following items actually paid:

(1) Any expense which is reasonably necessary for preservation of the security.

(2) Court costs in a foreclosure or other proper judicial proceeding involving the security.

(3) Other expenses reasonably necessary for collecting the debt, or repossession or liquidation of the security.

(4) Reasonable trustee's fees or commissions not in excess of those allowed by statute and in no event in excess of 5 percent of the unpaid indebtedness.

(5) Reasonable amount for legal services actually performed not to exceed 10 percent of the unpaid indebtedness as of the date of the first uncured default, or \$350 whichever is less.

(6) Any other expense or fee that is approved in advance by the Administrator. (38 U.S.C. 1820(a)(3)) In no event may the combined total of the amounts claimed for trustee's fees and legal services (paragraph (b) (4) and (5) of this section exceed \$350.

(38 U.S.C. 1819(g), 1820(a)(3))

[FR Doc. 80-17202 Filed 6-5-80; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13; Amdt. 4]

Publishing and Filing of Tariffs by Common Carriers by Water in the Foreign Commerce of the United States; Specification of Carrier Policy Statement Concerning Anti-Rebating

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Commission's tariff filing regulations applicable to the foreign commerce of the United States were recently revised pursuant to the rulemaking proceeding in Docket No. 72-19 and became fully effective January 1, 1979. One of the prime considerations for requiring the revisions to the Commission's tariff filing regulations was to foster the standardization in tariff format. In Docket No. 79-65 the Commission adopted rules for the purpose of

implementing the provisions of Pub. L. 96-25, 93 Stat. 71. The rules in this docket concern the certification of vessel operating common carrier's policies and efforts to combat rebating in the foreign commerce of the United States. The anti-rebating requirements are reflected as Amendment No. 2 to Commission General Order 13—46 CFR 536.5(c)(2). In order to preserve the integrity of the Commission's general tariff filing requirements specification of a location for the requirements of Amendment No. 2 to General Order 13 is necessary.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Room 11101, Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: The location of the carriers anti-rebating policy statement should be such as to focus a tariff user's attention to the required anti-rebating statement prior to any search for a carrier's lawfully filed rates, rules and regulations. Due to the fact that the present tariff filing regulations do not permit the publication of any tariff material on the reverse side of tariff pages, it is deemed that the reverse side of the title page is appropriate and is herewith designated as one of the locations to publish the material required by Amendment No. 2 to Commission General Order 13. Alternatively, in order not to impose any undue burden upon the carrier industry but yet satisfy the new anti-rebating filing requirements, it is proposed that vessel operating common carriers be permitted the alternative of publishing the anti-rebating statement at any location in the tariff provided that reference to such location is shown on the title Page thereof.

Inasmuch as this is an interpretation of an existing Commission requirement, notice of rulemaking and public comments are not considered necessary.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 18(b) and 43 of the Shipping Act, 1916, (46 U.S.C. 817(b) and 841(a)), the Commission Foreign Commerce Tariff filing regulations (46 CFR Part 536); General Order 13 is hereby amended by adding the following language to § 536.4(e):

§ 536.4 Tariff format.

(e) * * * "Provided however, That the following anti-rebating statement must be published on the reverse side of each vessel operating common carrier's tariff title page, or alternatively, at any

location in the tariff provided that reference to such location is shown on the Title Page thereof. The statement may become effective upon filing and shall read substantially as follows:

(Name of company) has a policy against the payment of any rebate, directly or indirectly by the company or by an officer, employee, or agent, which payment would be unlawful under the United States Shipping Act, 1916. Such policy has been certified to the Federal Maritime Commission in accordance with the Shipping Act Amendments of 1979, Pub. L. 96-25, 93 Stat. 71, and the regulations of the Commission set forth in 46 CFR Part 552.

When the carrier's tariff is a conference/rate agreement tariff, the carrier shall ensure that the conference or rate agreement publish the carrier's tariff provision in the conference/rate agreement tariff."

* * * * *

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 80-17168 Filed 6-5-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-340; RM-3508; RM-3605]

FM Broadcast Station in Malakoff, Tex.; Changes Made in Table of Assignments

Correction

In FR Doc. 80-16623 appearing at page 37210 in the issue for Monday, June 2, 1980; on page 37211, first column, last line above the footnote, "24A" should read "240A".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Directed Service Order No. 1437; Supplemental Order No. 3]

Regional Transportation Authority—Directed Service—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Over Chicago Commuter Line

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order No. 1437, Supplemental Order No. 3, Amendment to Final Rule.

SUMMARY: Pursuant to Section 120, Pub. L. 96-254, enacted May 30, 1980 (Rock

Island Transition Act or RITA), the Commission is extending for two years the authorization of the Illinois Regional Transportation Authority (RTA) to provide service as a "directed rail carrier" (DRC)—without federal subsidization under 49 U.S.C. 11125(b)(5)—over the Chicago-Joliet, IL, commuter line owned by the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("Rock Island" or "RI").

DATES: Effective Date: This decision shall be effective on May 30, 1980. Expiration Date: Unless otherwise modified by the Commission, DSO No. 1437 as revised, will expire at 11:59 p.m. (central time) May 29, 1982, or upon consummation of sale of the line.

FOR FURTHER INFORMATION CONTACT: Richard J. Schiefelbein (202) 275-0826, or Joel E. Burns (202) 275-7849.

SUPPLEMENTAL INFORMATION:

Decision of the Commission

Background

The Rock Island has been in bankruptcy proceedings since 1975. In September 1979, its cash flow position became so severe as to prevent the continuation of normal rail operations. Accordingly, we issued Directed Service Order No. 1398 (and supplements thereto) directing the Kansas City Terminal Railway Company (KCT) to provide service under 49 U.S.C. 11125 as a subsidized "directed rail carrier" (DRC) over the Rock Island rail system. *Kansas City Term. Ry. Co.—Operate—Chicago, R.I.&P.*, 360 I.C.C. 289, 478, 718 (1979-80); 44 FR 56343, 70733, and 45 FR 14578 (1979-80). That order expired on March 23, 1980.

On March 20, 1980, we issued DSO No. 1437, 45 FR 21641 (April 2, 1980), authorizing the RTA to provide interim service—without federal subsidization under 49 U.S.C. 11125(b)(5)—over the Chicago-Joliet, IL, commuter line owned by Rock Island, from March 24 through May 31, 1980, inclusive. The terms and conditions of DSO No. 1437 were modified by Supplemental Order No. 1, issued March 25, 1980, by adding a requirement that RTA and the RI Trustee negotiate regarding use of Rock Island tracks and related facilities. In the event of failure to reach agreement, we reserved the right to set reasonable compensation terms.

RTA and the Trustee were unable to reach agreement regarding rent for use of the Chicago-Joliet commuter line.

Therefore, the Commission set terms of compensation for use of the line in DSO No. 1437 Supplemental Order No. 2, served May 19, 1980, 45 FR 34002 (May 21, 1980). In that decision we found that reasonable compensation for use of the Chicago-Joliet line should be computed in accordance with the principles of the *Frisco Compensation*¹ case, adjusted to apply costs and revenues of commuter service operations.

Discussion and Conclusion

On May 30, 1980, Pub. L. 96-254 (Rock Island Transition Act or RITA) was enacted. Section 120 of RITA provides that the Commission shall direct service, for a two-year period from the date of enactment of the Act, over any passenger commuter line of the Rock Island that was in operation on March 1, 1980, if the directed service carrier agrees to provide such service without payment under 49 U.S.C. 11125(b)(5). That section of RITA further provides that the Trustee shall receive compensation for use of Rock Island property and facilities on terms determined by the Commission to be reasonable. This two-year period will allow reasonable time for RTA and the Trustee to negotiate regarding terms of sale for the line and to obtain Court approval for the sale under section 17(b) of Pub. L. 96-101 (Nov. 4, 1979), the Milwaukee Railroad Restructuring Act (MRRRA). Expeditious agreement and consummation of sale of the line, however, would make continuation of directed service for the full two-year period unnecessary.

The Chicago-Joliet commuter line was in service on March 1, 1980, pursuant to the terms of DSO No. 1398. The RI Trustee and the RTA have not reached agreement for sale of the line. At present it is operated by RTA pursuant to DSO No. 1437, as revised. DSO No. 1437, as revised, authorizes RTA to perform directed rail operations over the Chicago-Joliet line, on the condition that it waive federal subsidy under 49 U.S.C. 11125(b)(5) and pay compensation for use of the line in accordance with terms found to be reasonable in DSO No. 1437, supplemental Order No. 2. Therefore, we conclude that the terms of DSO No.

1437, as revised, satisfy the mandate of section 120 of RITA. Accordingly, the terms and conditions of DSO No. 1437, as revised, should be modified by deleting the paragraph entitled *Expiration Date*, and by substituting the following:

Expiration Date: Unless otherwise modified by the Commission, DSO No. 1437, as revised, will expire at 11:59 p.m. central time, May 29, 1982, or upon consummation of sale of the line. The Commission lacks jurisdiction to direct service beyond that date.

The terms 49 CFR 1033.1437 should be modified by deleting sub-paragraphs (a)(1) and (9) and substituting the following:

§ 1033.1437 [Amended]

(a) The entry may occur no earlier than 12:01 a.m. (central time) on March 24, 1980 and shall continue no later than 11:59 p.m. (central time) on May 29, 1982, or upon consummation of sale of the line.

(9) *Expiration Date*—Unless otherwise modified by the Commission, DSO No. 1437 will expire at 11:59 p.m. (central time) May 29, 1982, or upon consummation of sale of the line.

We find: 1. The Chicago-Joliet commuter line was in operation on March 1, 1980.

2. The RI Trustee and the RTA have not reached agreement for sale of the line.

3. DSO No. 1437, as revised, should remain in effect for a period of two years from the date of enactment of the Rock Island Transition Act, or until sale of the line is consummated.

4. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106 and 1108.

It is ordered: 1. DSO No. 1437, as revised, is modified in accordance with the terms of this decision.

2. This decision shall be effective on May 30, 1980.

Dated: May 28, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam absent and not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-17208 Filed 6-5-80; 8:45 pm]

BILLING CODE 7035-01-M

¹ Finance Docket No. 29305, *St. Louis-San Francisco Railway Company—Compensation for Use of Terminal Tracks—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)*, — I.C.C. — (decided April 7, 1980, 45 FR 25401 (April 15, 1980)).

49 CFR Part 1033

[Service Order No. 1380, Amdt. No. 2]

The Chesapeake & Ohio Railway Co. Authorized To Operate Over Tracks of Consolidated Rail Corp.**AGENCY:** Interstate Commerce Commission.**ACTION:** Amendment No. 2 to Service Order No. 1380.**SUMMARY:** This order amends Service Order No. 1380, which authorized the Chesapeake and Ohio Railway Company to operate over Conrail tracks, by extending the expiration date until 11:59 p.m., August 31, 1980.**EFFECTIVE DATE:** 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr. (202) 275-7840.

Decided May 29, 1980.

Upon further consideration of Service Order No. 1380 (42 FR 38379, 43 FR 2725, 36639, 44 FR 29894, and 45 FR 29054), and good cause appearing therefor:

It is ordered, § 1033.1380 the Chesapeake and Ohio Railway Company authorized to operate over tracks of Consolidated Rail Corporation, Service Order No. 1380 is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under authority of 49 U.S.C. 10304-10305 and 11121-11126.

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment 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 John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-17380 Filed 6-5-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Corrected Service Order No. 1448; Amdt. No. 1]

The Denver & Rio Grande Western Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad, Debtor (William M. Gibbons, Trustee)**AGENCY:** Interstate Commerce Commission.**ACTION:** Amendment No. 1 to corrected revised Service Order No. 1448.**SUMMARY:** This order amends Service Order No. 1448, which authorized the Denver and Rio Grande Western Railroad Company to operate over Rock Island tracks, by extending the expiration date until August 31, 1980.**EFFECTIVE DATE:** 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr. (202) 275-7840.

Decided May 29, 1980.

Upon further consideration of Service Order No. 1448 (45 FR 23445, 45 FR 21249 and 45 FR 25810), and good cause appearing therefor:

It is ordered, § 1033.1448 the Denver and Rio Grande Western Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), Corrected Revised Service Order No. 1448 is amended by substituting the following paragraph (i) for paragraph (i) thereof:

(i) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11123(a)(3).

A copy of this amendment 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 amendment 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 John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-17361 Filed 6-5-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Service Order No. 1464; Amdt. No. 1]

Railroads Required To Hold Empty Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee) Freight Equipment Bearing Reporting Marks RI, ROCK, ROCKX, and WOV**AGENCY:** Interstate Commerce Commission.**ACTION:** Amendment No. 1 to Service Order No. 1464.**SUMMARY:** This order amends Service Order No. 1464, which required railroads to hold empty Rock Island freight equipment bearing reporting marks RI, ROCK, ROCKX and WOV, by extending the expiration date until 11:59 p.m., August 31, 1980.**EFFECTIVE DATE:** 11:59 p.m., May 31, 1980, and continuing in effect until 11:59 p.m., August 31, 1980.**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr. (202) 275-7840.

Decided: May 29, 1980.

Upon further consideration of Service Order No. 1464 (45 FR 25811), and good cause appearing therefor:

It is ordered, § 1033.1464 Railroad required to hold empty Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) freight equipment bearing reporting marks RI, ROCK, ROCKX AND WOV. Service Order No. 1464 is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

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 John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-17362 Filed 6-5-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 45, No. 111

Friday, June 6, 1980

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 720

Federal Equal Opportunity Recruitment Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Under the authority of the Civil Service Reform Act, the Office of Personnel Management is proposing regulations to require agencies to continue maintaining information systems that will assist them in implementing affirmative recruitment programs and enable them to provide the Office with race, sex, and national origin data concerning employees.

DATE: To be considered, comments must be received on or before August 5, 1980.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Office of Personnel Management (Room 6410D), 1900 E Street, N.W., Washington, D.C. 20415. Comments received will be available for public inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Stanley J. Suser, Work Force Information Division, (202) 632-6739.

SUPPLEMENTARY INFORMATION: Pursuant to the President's Reorganization Plan No. 1 of 1978, OPM's responsibility for Federal agency affirmative action under Section 717 of the Civil Rights Act of 1964, as amended, and other equal employment opportunity enforcement authorities pertaining to the Federal work force were vested in the Equal Employment Opportunity Commission (EEOC). Acting under this authority, EEOC adopted by incorporation and verbatim, as a part of 29 CFR (see 43 FR 60901, December 29, 1978), the former Civil Service Commission (CSC) regulations (5 CFR Part 713). These

former regulations were designed, in part, to implement the former Civil Service Commission's role for equal employment opportunity in the Federal sector that was transferred to EEOC. A portion of the CSC regulations, Subpart C (5 CFR 713.302) dealt with operational management of Federal agency minority statistics systems, including the authority for CSC to levy minority statistics reporting requirements and to prescribe coverage, codes, data maintenance, and reporting standards. There never were restrictions on the collection of data on the sex of applicants or Federal employees. Because of the need to move quickly in transferring Part 713 regulations to EEOC it was mutually agreed by the Office and EEOC that amendments would be made that would reflect the Office's continuing operational responsibility for these systems and EEOC's retention of overall policy and program oversight and control of such systems.

The Office has a definite role in evaluation of agency employee selection procedures and in eliminating any adverse impact resulting from those procedures, as well as the responsibility to furnish statistical reports to Congress, required by the EEO Act of 1972, concerning the racial, sex, and national origin makeup of the Federal work force. In addition, Section 717(b)(2) requires such reports by EEOC. For these reasons, and because the Office in the past has exercised effective and efficient operational management control of the relevant agency systems and has the methodology already in place, i.e., the Central Personnel Data File (CPDF), EEOC agrees that operational responsibility for such systems continues to be an appropriate Office function. Pursuant to EEOC's authority to set policy for race, sex, and national origin data systems, it retains the authority to make changes or additions in such data submission requirements that will be implemented and incorporated by the Office.

Therefore, it is necessary for both the Office and EEOC to formally codify these functional relationships. Consequently, as published elsewhere in this issue of the *Federal Register*, EEOC is amending that portion of its regulations (29 CFR 1613.301 and 1613.302) that was incorporated along with the rest of the former Part 713, to

continue operational responsibility for the systems by the Office, while the Office herein proposes its regulations that are designed to implement operational management of these systems. The Director, Office of Personnel Management, has determined that these proposed OPM regulations are considered "non-significant" within the meaning of E.O. 12044. The proposed new Subpart C appears below.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, OPM is proposing to add a new Subpart C to 5 CFR Part 720, to read as follows:

Subpart C—Race, Sex, and National Origin Statistics Systems.

Sec.

720.301 Applicability.

720.302 Agency Systems.

Subparts D-I—[Reserved]

* * *

Subpart C—Race, Sex, and National Origin Statistics Systems

§ 720.301 Applicability.

(a) This subpart applies to:
(1) Military departments as defined in 5 U.S.C. 102, executive agencies as defined in 5 U.S.C. 105, the U.S. Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds; and

(2) Those units of the legislative and judicial branches of the Federal Government having positions in the competitive service and the employees in those positions.

(b) This subpart does not apply to aliens employed outside the limits of the United States.

§ 720.302 Agency systems.

(a) Each agency shall establish a system(s) which provides statistical information on applicants and employees by race, sex, and national origin. The Office of Personnel Management (Office), in consultation with the Equal Employment Opportunity Commission (Commission) will exercise general operational responsibility for these systems, which will include prescribing the coverage, data standards and codes, operational procedures, and reporting requirements.

(b) Data may be collected through employee self-identification, or by visual

identification used to supplement data collection by self-identification, only in the manner prescribed by the Office after consultation with the Commission. Agencies shall recognize and protect employee privacy in the maintenance of the data and shall adhere to the Office's Privacy Act regulations (5 CFR Part 297) in the processing of an individual's request for access or amendment made under that Act.

(c) Each agency's system is subject to the following restrictions:

(1) Only those categories of race, sex, or national origin prescribed by the Office after consultation with the Commission may be used;

(2) Only the specific procedures for the collection and maintenance of data that are prescribed or approved by the Office may be used. Pursuant to the Commission's authority to set policy for such data systems, it retains the authority to make changes or additions in agency race, sex, or national origin data submission requirements that will be implemented and incorporated by the Office;

(3) The Office shall review the operation of agency systems to insure adherence to the Office's procedures and requirements. An agency may make an exception to prescribed procedures and requirements only with the advanced written approval of the Office or the Commission; and

(4) Nothing in this regulation shall preclude the Commission from requiring agencies to maintain and report additional and more detailed statistics to satisfy its affirmative action program instructions.

(d)(1) Agencies may only use the data in studies, analyses, or for operational purposes which relate to the Federal Equal Opportunity Recruitment Program, Section 717 of the Civil Rights Act of 1964, as amended, or other equal employment opportunity programs.

(2) An agency must receive specific written authorization from either the Office or the Commission before using the data for other purposes.

(3) Before issuing any authorization for additional uses of the data, the Office shall consult with the Commission.

(e) An agency shall not establish a quota for the employment of persons on the basis of race, color, religion, sex, or national origin.

(f) An agency shall report to the Office and the Commission on employment by race, sex, and national origin in the form and at such times as the Office and the Commission may require.

Authority: 5 U.S.C. 7201.

[FR Doc. 80-17199 Filed 6-5-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

7 CFR Part 917

Fresh Pears, Plums, and Peaches Grown in California; Proposed Extension of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal which would continue through May 31, 1981, the current U.S. No. 1 minimum grade requirement applicable to fresh shipments of California peaches. It would also continue through such date specified minimum size requirements except that from July 3, 1980, through October 31, 1980, the minimum size for varieties not named in the regulation would be increased from size 96 to size 80. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Comments must be received on or before June 23, 1980.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Section 917.452 Peach Regulation 12 was published in the May 16, 1980 issue of the *Federal Register* (45 FR 32310), which set forth minimum grade and size requirements for shipments of specified varieties of fresh California peaches for the period May 16 through July 2, 1980. Peach Regulation 12 was issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposed action is based upon the recommendations and information submitted by the Peach Commodity Committee, the agency established under the marketing agreement and order, and upon other available information. This proposed rule would

extend the California peach regulation, making it effective for the rest of the 1980-81 season, except that during the period July 3 through October 31, 1980, size 80 would be the minimum size for varieties not listed in the regulation.

The committee estimates fresh shipments of California peaches at 12.7 million packages, compared with actual shipments of 12.1 million packages last season. The committee reports that the 1980 California peach crop is sizing normally and is of good quality.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposal is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that these actions should not be classified "significant." A Draft Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5975.

The proposal is that Peach Regulation 12 be amended to read as follows:

§ 917.452 Peach Regulation 12.

(a) During the period July 3, 1979, through May 31, 1981, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade, except that maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, or Springgold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Babcock, Bonjour, Cardinal Dixired, Early Coronet, Early Royal May, Flavorcrest, JJK-1, June Lady, May Lady, Merrill Gemfree, Pat's Redhaven, Royal May, Springcrest, Royal Crest,

May Crest, Tizz, or Red Crest variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, or Regina variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) any package or container of Angelus, Autumn Gem, Bella Rosa, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Regular Elberta, Rio Osa Gem, Scarlet Lady, Sparkle, Summerset, Summertime, Suncrest, Sun Lady, Toreador, Treasure, Windsor, Delp, Gem Crest, or Otani variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22DF standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with

the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period July 3, 1980, Through October 31, 1980, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in subparagraphs (1) or (2) of this paragraph (b) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(c) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210-1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

Dated: June 3, 1980.

D.S. Kuryloski,

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

[FR Doc. 80-17260 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland; Proposed Revision of Diversion Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposal is to revise the fees payable to the Cherry Administrative Board by producers for costs incurred by the Board in supervising diversion of restricted percentage cherries.

DATES: Comments must be received not later than June 23, 1980.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

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

SUPPLEMENTARY INFORMATION: This proposal was unanimously recommended by the Cherry Administrative Board under § 930.56(a)(1) of marketing Order No. 930 (7 CFR Part 930). The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Board is the agency established under the order to administer its terms and conditions.

Under the marketing order, producers may divert cherries by leaving them unharvested in lieu of placing them in a reserve pool. Such diversion must be carried out under the supervision of the Board and the cost of such supervision must be paid by the producer. The current fees applicable to such supervision have been in effect since 1972, and the proposal would revise the fees to reflect the Board's estimate of current costs.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposal is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant." A draft impact analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

The proposal is to revise § 930.102(a)(1) as follows:

§ 930.102 Diversion fees.

(a) * * *

(1) Schedule of fees to be assessed applicant:

Fee and Total Acres To Be Diverted

\$50.00—50 acres or less.

\$75.00—51-100 acres.

\$100.00—101 acres or more.

(i) * * *

(ii) * * *

Dated: May 28, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division
Agricultural Marketing Service.

[FR Doc. 80-17207 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Acceptance Tests for Stored Program, Processor-Controlled Digital Central Offices; Addition to Existing Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue Appendix VII to Bulletin 384-2. Appendix VII, "Acceptance Tests for Stored Program, Processor-Controlled Digital Central Offices," provides a guideline for conducting acceptance tests on digital central offices. With the introduction of digital switching equipment it becomes necessary to furnish acceptance test procedures for that type of equipment.

DATE: Public comments must be received by REA no later than: August 5, 1980.

ADDRESS: Submit written comments to the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maynard S. Knapp, telephone (202), 447-5773. A Draft Impact Analysis has been prepared and is available from the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 384-2, "Closeout Documents for Central Office Equipment Contracts."

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

On issuance of Appendix VII to Bulletin 384-2, Appendix A to Part 1701 will be modified accordingly.

This 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 not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355-S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: May 27, 1980.

Robert W. Feragen,
Administrator.

[FR Doc. 80-17294 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-15-M

7 CFR Part 1701

Advance Notice of Proposed Revision of REA Bulletins 181-1, Uniform System of Accounts and 181-3, Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: REA proposes to revise REA Bulletins 181-1, Uniform System of Accounts and 181-3, Accounting Interpretations for Rural Electric Borrowers, to clarify the classification of long-term and short-term debt obligations. Public comments are invited.

DATE: Public comments must be received by REA no later than: July 7, 1980.

ADDRESS: Persons interested in the proposed revisions may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 447-7221.

SUPPLEMENTARY INFORMATION: REA is considering the revision of REA Bulletins 181-1, Uniform System of Accounts, and 181-3, Accounting Interpretations for Rural Electric Borrowers, to include the provisions of Financial Accounting Standard No. 6, the Classification of Short-term Obligations Expected to be Refinanced. Under the provisions of FAS No. 6, short-term obligations which a company intends to refinance on a long-term basis and for which the company can support its ability to obtain this refinancing will be recorded in Account 224, Other Long-

Term Debt. The support required to indicate a company's ability to refinance short-term debt would be demonstrated in one of the following ways:

- (1) If long-term financing has been obtained after the balance sheet date, but before its issuance or;
- (2) If the company enters into a financing agreement that clearly permits refinancing of the short-term obligation prior to the issuance of the balance sheet.

In addition to the provisions of FAS No. 6, we are proposing that the portion of long-term debt obligations coming due in the current period be classified as a current liability.

All interested parties are invited to comment on this notice. Further public comment will be solicited when the proposed rule is published.

Dated: May 29, 1980.

Joseph Velloni,
Acting Assistant Administrator—
Administrator.

[FR Doc. 80-17293 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-15-M

Food Safety and Quality Service

7 CFR Part 2842

United States Standards for Condition of Food Containers

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the United States Standards for Condition of Food Containers to include on-line sampling procedures for the condition inspection of food containers. In addition, certain definitions would be added for this procedure and several existing definitions in the standards would be amended for clarification. The intended effect of this proposal would be provide procedures to determine the condition of food containers in an on-line production operation.

DATE: Comments must be received on or before August 5, 1980.

ADDRESS: Written comments to: Office of the Executive Secretariat, Attn: Annie Johnson, Room 3807, South Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. (See also comments under Supplementary Information).

FOR FURTHER INFORMATION CONTACT: Ashley R. Gulich, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3506. 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: This proposed action has been reviewed under 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 written comments concerning this proposal. Comments must be sent in duplicate to the office of the Executive Secretariat and should bear a reference to the date and page number of this issue of the *Federal Register*. All comments made pursuant to this proposal will be made available for public inspection in the office of the Executive Secretariat during regular business hours (7 CFR 1.27(b)).

Background

The United States Standards for the Condition of Food Containers currently provide sampling procedures and acceptance criteria for the inspection of stationary lots of filled food containers and for skip lot sampling procedures for the examination of these lots. These standards are concerned only with external defects such as dents in cans or torn areas in fiberboard containers.

Stationery lot sampling is the process of randomly selecting sample units from a lot whose production has been completed. This type of lot is usually stored in a warehouse or in some other storage area and is offered for inspection in its entirety. Skip lot sampling is a special procedure for inspecting stationary lots in which only one-half or one-fourth of the lots offered for inspection are formally inspected. Skip lot inspection can only be instituted when a certain number of lots of essentially the same quality at origin in a plant have been consecutively acceptable. To be acceptable under the examination criteria in the standards, lots must contain only a limited number of defects classified as minor, major, and critical. Acceptance criteria are based on sampling plans, accompanied by operating characteristic curves, for different lot sizes and levels of inspection such as normal, reduced or tightened. Defect tables classify the severity of the defect.

The Department proposes to add procedures for the on-line sampling of food containers to the current standards. On-line sampling and inspection is a procedure in which subgroups of sample units are selected randomly from predesignated portions of production.

The acceptability of these portions is determined, at the time of sampling, by inspecting the subgroups which represent these portions. The advantage of this type of sampling over stationary lot sampling is that only a portion of a lot rather than a whole lot may be rejected. It also helps to quickly pinpoint trouble spots in a production cycle, enabling the producer to make timely corrections. The standards were developed for use when government agencies request that filled primary containers or shipping cases or both be certified for condition. However, they are permissive and can be used by private parties as well.

In addition to amending the United States Standards for the Condition of Food Containers to include on-line sampling procedures, certain definitions would be added for this procedure and several existing definitions would be amended for clarification. The addition of on-line sampling procedures to the container standards would enable the standards to provide procedures for every conceivable situation for the inspection of food containers. This would be a valuable asset for all who need to determine the condition of filled containers in an on-line production operation.

Options Considered

The Department considered two options regarding this proposed rule:

1. Take no regulatory action at this time.
2. Propose an amendment to the regulations to include procedures for on-line sampling of food containers.

Option 2 was selected for reasons discussed herein.

Accordingly, 7 CFR Part 2842, U.S. Standards for Condition of Food Containers would be amended as follows:

1. In § 2842.102 of Subpart A-Definitions, the second reference to "Department" would be changed to "Agency" in the definition of "Administrator," the word "inspection" would be deleted in the first sentence of the definition of "Double sampling," the word "inspection" following the word "sampling" in the definition of "Single sampling" would be deleted.

2. In § 2842.102 of Subpart A, the definitions for "Acceptable Quality Level (AQL)," "Operating Characteristic Curve (OC Curve)," "Probability of Acceptance," "Random sampling," and "Sampling plan" would be amended, and new definitions for "Basic inspection period," "Cumulative Sum Sampling (CuSum) Plan," "Defect," "Defective," "On-line sampling," "Secondary container," and "Subgroup"

would be added in alphabetical order to read, respectively:

§ 2842.102 Definitions, general.

* * * * *

Acceptable Quality Level (AQL). The maximum number of defects per hundred units (DHU) which is acceptable as a process average. Lots, or portions of production, having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for the AQL.

* * * * *

Operating Characteristic Curve (OC Curve). A curve that gives the probability of acceptance as a function of the quality level of the lot or the quality level of the portion of production. It shows the discriminatory power of a sampling plan, i.e., how the probability of accepting a lot, or portion of production, varies with the quality of the containers offered for inspection.

* * * * *

Probability of Acceptance.

(1) **For Stationary Lot Sampling.** The chance that a lot with a given level of quality will be accepted. Probability of acceptance is synonymous with "Percent of Lots Expected to be Accepted." The probability of acceptance is normally designated as "Pa" but is designated as "Pas" when referring to skip lot sampling and inspection.

(2) **For On-line Sampling.** The chance that a portion of production with a given level of quality will be accepted. Probability of acceptance is synonymous with "Percent of Production Expected to be Accepted." The probability of acceptance is normally designated as "Pa." In on-line sampling inspection, the probability of acceptance of any portion of production depends on the sample results obtained from the preceding portions. The probability of acceptance values associated with these procedures are the values which would be expected if a large number of samples are to be inspected. For the CuSum plans referenced in this standard, the probability of acceptance at the Acceptable Quality Level (AQL) is approximately 95 percent. The starting value ("S") associated with each CuSum plan helps to make the probability of acceptance of the first portions of production of a basic inspection period as close as possible to 95 percent.

Random sampling. A process of selecting a sample from a lot, or portion of production, whereby each unit in the

lot, or portion of production, has an equal chance of being chosen.

Sampling plan. Any plan stating the number of sample units to be included in the sample as well as the corresponding plan parameters used to make acceptance and rejection decisions.

Basic inspection period. A specified period of consecutive production designated for on-line inspection (e.g., one shift's production, one day's production, etc.).

Cumulative Sum Sampling (CuSum) Plan. An on-line sampling plan that accumulates the number of defects which exceed the subgroup tolerance ("T") in a series of consecutive subgroups. Terms specified to the CuSum sampling plans are:

(1) *Acceptance Limit ("L").* The maximum accumulation of defects allowed to exceed the subgroup tolerance ("T") in any subgroup or consecutive subgroups.

(2) *CuSum value.* The accumulated number of defects that exceed the subgroup tolerance ("T").

(3) *Subgroup tolerance ("T").* The allowable number of defects in any subgroup.

(4) *Starting value ("S").* The initial CuSum value used to begin a CuSum sampling plan.

Defect. Any nonconformance of a container from specified requirements.

Defective. A container which has one or more defects.

On-line sampling. The random selection of samples from a production line.

Secondary container. The container in which one or more primary containers are packed. For example, a shipping case containing canned product.

Subgroup. A group of sample units representing a portion of production.

§ 2842.103 [Amended]

3. In § 2842.103(a), the letters "FSQS" would be deleted.

§§ 2842.140 through 2842.142 Redesignated Subpart E.

4. The present Subpart D—Miscellaneous (7 CFR 2842.140 through 2842.142) would be redesignated Subpart E—Miscellaneous, and a new § 2842.143 would be added to Subpart E—Miscellaneous and would read as follows:

§ 2842.143 Operating Characteristic (OC) curves for on-line sampling and inspection.

(a) This section contains the Operating characteristic (OC) curve for each of the on-line cumulative sum sampling plans provided in Subpart D. The OC curve and the corresponding cumulative sum sampling plans are listed by AQL.

(b) Different plan parameters used to make acceptance and rejection decisions are provided for each AQL.

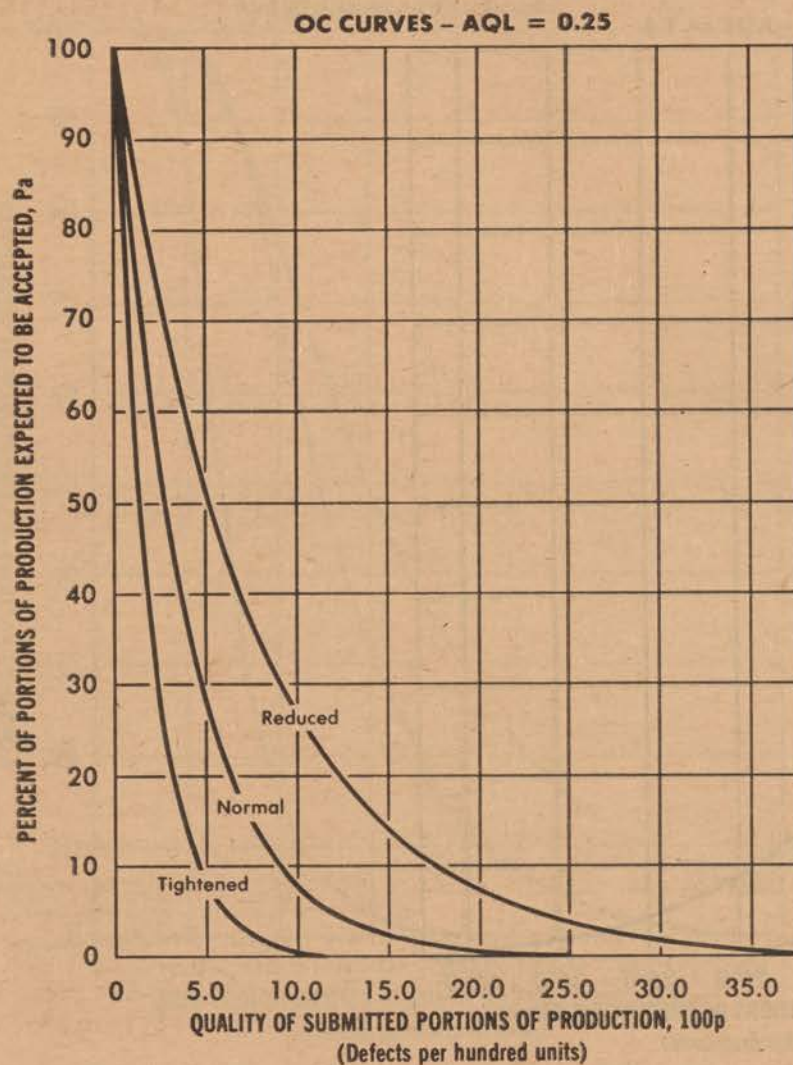
(c) The curves show the ability of the various cumulative sum sampling plans to distinguish between good and bad portions of production. The interpretation of these curves for portions of production is similar to the interpretation of the OC curves for stationary lots as illustrated in § 2842.140(c).

BILLING CODE 3410-DM-M

REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS
 CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL = 0.25
 DEFECTS PER HUNDRED UNITS
 [SAMPLING PLANS—AQL = 0.25]

Identification name of OC curves											
Reduced				Normal				Tightened			
n_g	T	L	S	n_g	T	L	S	n_g	T	L	S
13	0	0	0	25	0.05	0.95	0.35	50	0.1	0.9	0.3

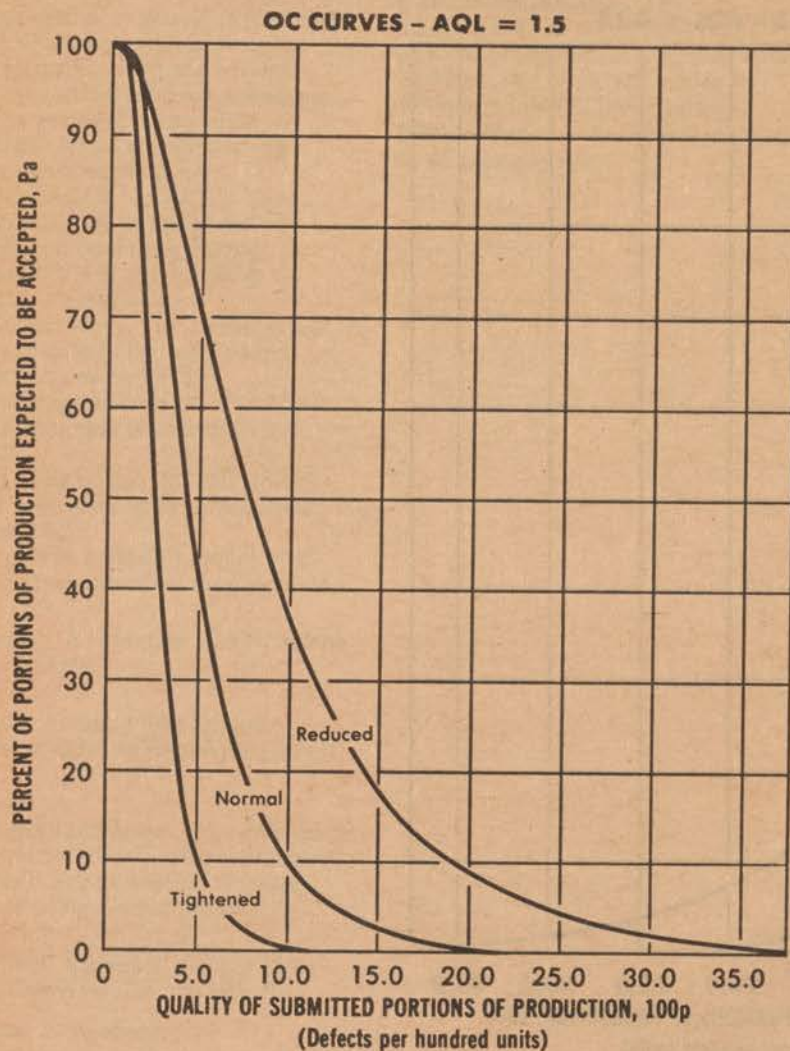
n_g = Number of sample units in a subgroup. T = Subgroup tolerance. L = Acceptance limit. S = Starting value.



REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS
 CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL = 1.5
 DEFECTS PER HUNDRED UNITS
 [Sampling plans—AQL = 1.5]

Identification name of OC curves											
Reduced				Normal				Tightened			
n_g	T	L	S	n_g	T	L	S	n_g	T	L	S
13	0.5	0.5	0	25	0.5	2	1	50	0.8	1.6	0.4

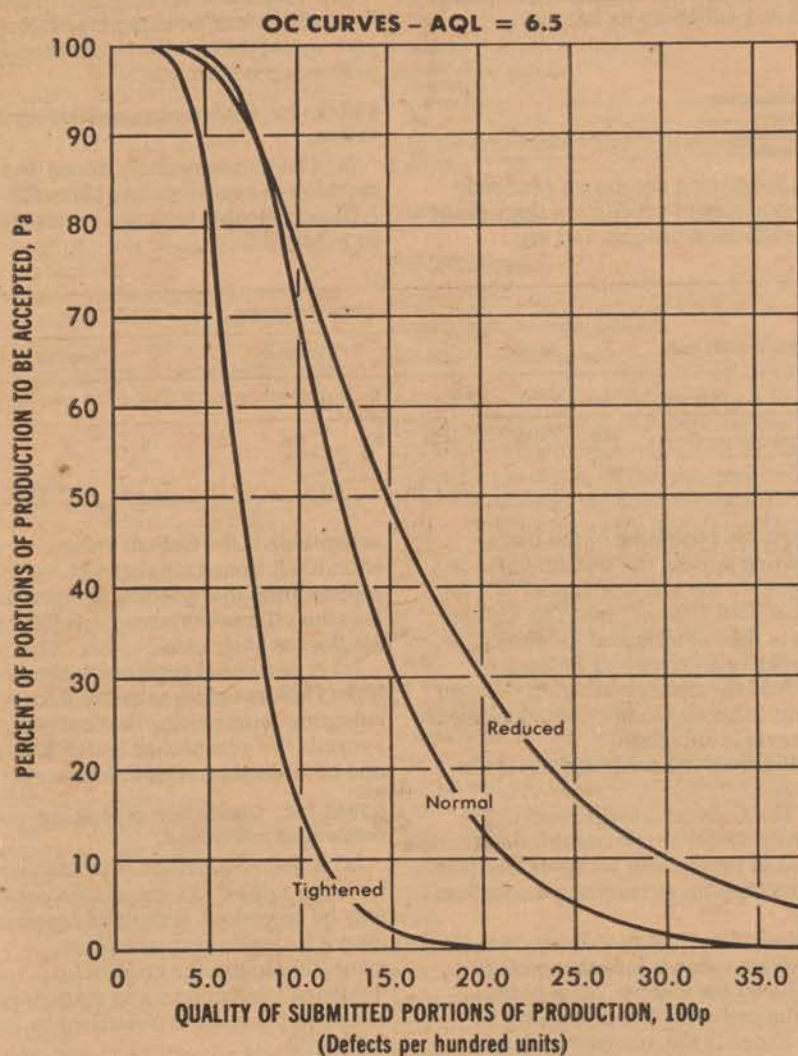
n_g = Number of sample units in a subgroup. T = Subgroup tolerance. L = Acceptance limit. S = Starting value.



REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS
 CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL = 6.5
 DEFECTS PER HUNDRED UNITS
 [Sampling Plans—AQL = 6.5]

Identification name of OC curves											
Reduced				Normal				Tightened			
n_g	T	L	S	n_g	T	L	S	n_g	T	L	S
13	1	2	1	25	2	3	1	50	2.5	3	1

n_g = Number of sample units in a subgroup. T = Subgroup tolerance. L = Acceptance limit. S = Starting value.



5. A new Subpart D (7 CFR 2842.130-2842.136) would be added, and the Table of Contents would be amended to read as follows:

Subpart D—On-Line Sampling and Inspection Procedures

Sec.	
2842.130	Description and qualifications.
2842.131	Selection of samples.
2842.132	Determining cumulative sum values.
2842.133	Portion of production acceptance criteria.
2842.134	Disposition of rejected portions of production.
2842.135	Normal, tightened or reduced on-line inspection.
2842.136	Applicability of other procedures.

§ 2842.130 Description and qualifications.

(a) In many instances, food containers are loaded directly into carriers immediately after final packaging. This situation makes stationary lot sampling and inspection impractical. For such circumstances, the optional procedure for on-line sampling and inspection using cumulative sum sampling plans is provided. On-line sampling and inspection is a procedure in which subgroups of sample units are selected randomly from predesignated portions of production. The acceptability of the portions of production is determined by inspecting, at the time of sampling, the subgroups which represent these portions. On-line sampling and inspection contrasts with stationary lot procedures in which sample units are selected randomly and inspected and lot acceptability determinations are made only after lot production is completed.

(b) On-line sampling and inspection procedures may be instituted only when all of the following conditions are met:

(1) When authorized by the Administrator and acceptable to the user and producer, if different from the user.

(2) When inspection is origin inspection (see § 2842.102).

(3) When previous production lots from the producer are currently on, or eligible to be on, either normal or reduced inspection. (When shifting from stationary lot sampling and inspection to on-line sampling and inspection, normal on-line inspection shall be initially used.)

(4) When inspection of the containers is performed at a point after which all conditions of container related characteristics are fixed and will not be subject to change during final handling.

§ 2842.131 Selection of samples.

(a) Prior to commencement of on-line sampling and inspection, the total

amount of production for a given day or shift is predicted and is then subdivided into conveniently designated portions of production approximately equal in size. Portions may be designated by sequential numbers (e.g., containers 1 through 500 are portion 1, containers 501 through 1000 are portion 2, etc.) or by time intervals (e.g., the first half hour of production is portion 1, the second half hour of production is portion 2, etc.) during which the containers are identified by individual production codes for each time interval.

(b) Determine the number of sample units in a subgroup as follows:

Type of inspection:	Number of sample units
Normal	25
Tightened	50
Reduced	13

(c) Subgroups are drawn randomly from portions of production throughout the production process and are

Acceptable quality levels	Type of inspection								
	Normal			Tightened			Reduced		
	T	L	S	T	L	S	T	L	S
0.25	0.05	0.95	0.35	0.1	0.9	0.3	0	0	0
1.5	.5	2	1	.8	1.6	.4	.5	.5	0
6.5	2	3	1	2.5	3	1	1	2	1

(b) At the beginning of the basic inspection period, the CuSum value is set equal to the starting value ("S") for the specified CuSum plan. The CuSum value is then determined for each consecutive subgroup as follows:

(1) Add the number of defects for the present subgroup to the CuSum value of the previous subgroup.

(2) Subtract the subgroup tolerance ("T").

(3) The CuSum value is reset in the following situations; however, determine portion of production acceptability (see § 2842.133) prior to resetting the CuSum value:

(i) Reset the CuSum value to zero (0) if the CuSum value is less than zero (0).

(ii) Reset the CuSum value to the acceptance limit ("L") if the CuSum value exceeds the acceptance limit ("L").

§ 2842.133 Portion of production acceptance criteria.

(a) The acceptability of a portion of production is determined by comparing the calculated CuSum value with the acceptance limit ("L") for the specified AQL.

(b) A portion of production is

inspected for defects. The drawing of sampling units may be done in either of two ways: (1) The number of sample units (13, 25, or 50) comprising a subgroup may be drawn at the same time from a randomly chosen point in the production of each portion or, (2) sample units may be drawn individually, but in a random manner, throughout the production of each portion. At least 6 subgroups must be obtained during each basic inspection period regardless of the system used to designate portions of production.

(d) A shift to on-line sampling plans from stationary lot sampling plans (or vice versa) during a basic inspection period is not permitted.

§ 2842.132 Determining cumulative sum values.

(a) The parameters for the on-line cumulative sum sampling plans for AQLs applicable to origin inspection are as follows:

acceptable if the CuSum value, calculated from the subgroup representing that portion, is equal to or less than the acceptance limit ("L") for all classes of defects.

(c) A portion of production is rejected if the CuSum value, calculated from the subgroup representing that portion, exceeds the acceptance limit ("L") for one or more classes of defects.

§ 2842.134 Disposition of rejected portions of production.

(a) Rejected portions of production from the same basic inspection period may be reworked, combined together to form a lot, and resubmitted for inspection under the criteria for tightened inspection using stationary lot sampling procedures described in Subpart B.

§ 2842.135 Normal, tightened or reduced on-line inspection.

(a) Normal, tightened and reduced on-line sampling plans are specified in § 2842.132 (Determining cumulative sum values). Normal plans shall be used except when the history of inspection permits reduced inspection or requires tightened inspection.

(b) Switching rules: Normal on-line inspection procedures shall be followed except when conditions in subparagraph (1) or (3) of this paragraph are applicable or unless otherwise specified. Application of the following switching rules will be restricted to the inspection of production for one applicant at a single production location and will be based upon records of original inspections of production (excluding resubmitted portions previously rejected and reworked) at that same location.

(1) **Normal Inspection to Reduced Inspection.** When normal inspection is in effect, reduced inspection shall be instituted provided that reduced inspection is considered desirable by the Administrator, and further provided that all of the following conditions are satisfied for each class of defect.

(i) The preceding 40 consecutive portions of production have been on normal inspection and no more than one of these portions has been rejected on original inspection; and

(ii) The total number of defects in the subgroups (1000 sample units) from these preceding 40 consecutive portions of production is less than or equal to the following limit numbers for the specified AQLs:

Acceptable quality levels:	Limit numbers
0.25	0
1.5	9
6.5	54

(2) **Reduced Inspection to Normal Inspection.** When reduced inspection is in effect, normal inspection shall be reinstituted if any of the following occur:

(i) More than one portion of production in any 40 consecutive portions of production is rejected on original inspection; or

(ii) Production becomes irregular (delayed or accelerated); or

(iii) Other valid conditions warrant that normal inspection shall be reinstituted.

(3) **Normal Inspection to Tightened Inspection.** When normal inspection is in effect, tightened inspection shall be instituted when two out of five consecutive portions of production have been rejected.

(4) **Tightened Inspection to Normal Inspection.** When tightened inspection is in effect, normal inspection shall be reinstituted when five consecutive portions of production have been considered acceptable.

(c) When the rules require a switch in the inspection status because of one or more classes of defects, all classes of defects shall be inspected under the new inspection criteria. At the option of the user of the service, and when approved by the Administrator, such user may

elect to remain on normal inspection when qualified for reduced inspection, or on tightened inspection when qualified for normal inspection.

§ 2842.136 Applicability of other procedures.

When appropriate, the procedures for classifying and recording defects in § 2842.106 and for appeal inspections in § 2842.108 also apply to on-line sampling and inspection.

Done at Washington, D.C., on May 30, 1980.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 80-17061 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-DM

Animal and Plant Health Inspection Service

9 CFR Part 83

Screwworms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the approval of pesticides permitted by the Department for use in the treatment of livestock affected with screwworms. This action is necessary to delete the names of proprietary brands of pesticide products from the approved list, some of which are no longer marketed, and to provide information on the generic pesticides which are approved for such treatment of livestock. The effect of this action would be to identify in the regulations only certain generic pesticides as effective for the treatment of animals affected with screwworms and to provide information on how to obtain the names of proprietary brands of such pesticides.

DATES: Comments on or before August 5, 1980.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

FOR FURTHER INFORMATION CONTACT: Dr. Floyd Smith, USDA, APHIS-VS, Sheep, Goat, Equine and Ectoparasites Staff, Room 733, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8233. The Draft Impact Analysis describing the options considered in developing these proposed amendments and the impact of implementing each option is available on request from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road,

Hyattsville, Maryland 20782, 301-436-8695.

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

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to Section 2 of the Act of February 2, 1903, as amended; Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1 through 4, 33 Stat. 1264 and 1265, as amended (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141), the Animal and Plant Health Inspection Service is considering amending Part 83, Title 9, Code of Federal Regulations.

Existing § 83.8(b) of the regulations provides notice of the proprietary brands of pesticides permitted by the Department for the treatment of livestock affected with screwworms. Proprietary brands of pesticides other than those listed in existing § 83.8(b) are permitted to be used for purposes of this part under existing § 83.8(c) only when approved in specific cases by the Deputy Administrator, Veterinary Services. Before a proprietary brand of pesticide is specifically approved for such use, Veterinary Services requires that the product be registered for such use under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (7 U.S.C. 135 *et seq.*).

Such registration insures that its efficacy and stability have been demonstrated, and that trials have been conducted to determine that it will effectively eradicate screwworms without injury to the animals treated to the satisfaction of the Environmental Protection Agency (EPA).

Specific proprietary brands of pesticides permitted for such treatment have previously been published in this part; however, many products presently listed in § 83.8(b) (9 CFR Part 83), are no longer marketed. Changes in policy by the various manufacturers and changes in formula have resulted in improved products for such treatment. Currently, only proprietary brands of coumaphos and ronnel are listed in this section since these are the only generic pesticides to be proven effective for the treatment of livestock for screwworms by EPA.

The Department has found that the proprietary brands are modified so frequently that it is impractical to amend the regulations every time a new

proprietary brand is introduced or an old one is discontinued.

Therefore, the Department is proposing to amend section 83.8(b) to specify that the proprietary brands of ronnel and coumaphos which are determined to be effective in the treatment of screwworms by EPA will be permitted in place of the names of proprietary brands as previously listed.

The pesticides permitted by the Department for the treatment of livestock for screwworms in § 83.8(b) would be proprietary brands of coumaphos and ronnel which are registered by EPA for use on livestock for screwworms when used in accordance with directions on the labels accepted in connection with their registration with EPA under the Federal Insecticide, Fungicide and Rodenticide Act.

A Footnote would be provided to inform the public that names of such proprietary brands of pesticides for use on livestock for screwworms may be obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Sheep, Goat, Equine, and Ectoparasites Staff, Screwworm Eradication Program, Hyattsville, Maryland 20782.

The list of names of proprietary brands of pesticides presently approved by EPA for the treatment of livestock for screwworms, and which may be obtained from the Department, are:

(1) For use as wound treatment on horses only: Franklin-Kiltect-100 Screwworm Killer and Fly Repellent.

(2) For use as wound treatment: (a) on cattle, sheep, goats, swine, and horses: Chemagro Co-Ral (coumaphos) 5 percent Livestock Duster; Cutter Co-Ral (coumaphos); 3 percent Pressurized Spray-Foam Wound Treatment; Cutter K.R.S. Spray Foam with Co-Ral (coumaphos); Haver-Lockhart SW Aero Spray-Foam Treatment with Co-Ral (coumaphos); and Martin's Korlan Smear Insecticide.

(b) On cattle, sheep, swine, and horses: Franklin's Blue Smear Screwworm Killer.

(c) On cattle, sheep, and horses: Dow Korlan Pressurized Livestock Spray.

(3) For use as a spray and/or dip: (a) On cattle, sheep, goats, swine, and horses: Cutter Co-Ral (coumaphos) Animal Insecticide 25 percent wettable powder and Chemagro Co-Ral (coumaphos) Animal Insecticide 25 percent wettable powder.

(b) On cattle and horses: Chemagro Co-Ral (coumaphos) Emulsifiable Livestock Insecticide.

Accordingly, Part 83, Title 9, Code of Federal Regulations, is proposed to be amended in the following respects:

1. Section 83.8(b) would be amended to read:

§ 83.8 Permitted pesticides and approved procedures.

*(b) Proprietary brands of coumaphos and ronnel, which are registered by the Environmental Protection Agency for use on livestock for screwworms under the Federal Insecticide, Fungicide and Rodenticide Act, (FIFRA), as amended (7 U.S.C. 135 *et seq.*), are permitted for the treatment of livestock for purposes of this part only when used in accordance with directions on the labels in connection with their registrations under the provisions of FIFRA.²

2. A Footnote ² to § 83.8(b) would be provided to read:

² Names of proprietary brands of the pesticides permitted by the Department for the treatment of livestock for purposes of this part may be obtained from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Sheep, Goat, Equine, and Ectoparasites Staff, Screwworm Eradication Program, Hyattsville, Maryland 20782.

3. Section 83.8(c) would be deleted in its entirety.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 733, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

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

Done at Washington, D.C., this 29th day of May 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-17205 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

ACTION: Proposed rulemaking: Extension of comment period.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has extended the period for receipt of public comment on its proposal to adopt a rule concerning the offering of premiums or gifts by depository institutions (Docket No. D-0004) to July 16, 1980. This extension will facilitate the public participation desired.

DATES: Comments must be received by July 16, 1980.

ADDRESS: Interested parties are invited to submit written data, views or arguments regarding the proposed rules to Normand R. V. Bernard, Executive Secretary, Depository Institutions Deregulation Committee, Federal Reserve Building, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All material submitted should include the Docket Number D-0004.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation (202/389-4324), Daniel L. Rhoads, Attorney, Board of Governors of the Federal Reserve System (202/452-3711), Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798), John Hall, Attorney, Federal Home Loan Bank Board (202/377-6466), or Debra Chong, Attorney, Office of the Comptroller of the Currency (202/447-1632).

SUPPLEMENTARY INFORMATION: On May 6, 1980 (45 Fed. Reg. 32323, May 16, 1980), the Committee requested comment on a proposal to prohibit the offering of premiums by depository institutions and to place limitations on the use of finders fees by depository institutions. Under the proposed rule, the giving to a depositor of a premium or gift (whether in the form of cash or merchandise) by an institution associated directly with the receipt of a deposit would be prohibited. In addition, finders fees paid to third parties would be regarded as the payment of interest to the depositor and would be required to be paid only in cash. The Committee also is considering adoption of a proposed rule that would require that all interest paid on a deposit be paid only in the form of cash or a credit to a deposit account. Comment was requested on the proposal by June 9, 1980. On May 13, 1980, the Committee extended the time for receipt of comments to June 16, 1980. In light of the issues involved in this proposal and in order to facilitate public participation in this matter, the Committee is extending

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0004]

Premiums, Finders Fees, and the Payment of Interest in Merchandise

AGENCY: Depository Institutions Deregulation Committee.

the time for receipt of written comments to July 16, 1980.

By order of the Committee, May 28, 1980.

Normand R. V. Bernard,
Executive Secretary of the Committee.

[FR Doc. 80-17320 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: Civil Aeronautics Board.

ACTION: Publication of agenda of significant rules under development or review.

SUMMARY: As part of its implementation of Executive Order 12044, *Improving Government Regulations*, the CAB publishes its semiannual Agenda of Significant Rules under Development or Review.

DATES: Adopted: May 29, 1980.

ADDRESSES: Copies of the rulemaking documents listed in this agenda can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; (202)673-5432. Each document should be identified by the designation appearing in parenthesis after the Federal Register citation.

Persons wishing to be placed on a mailing list for future editions of this agenda should send a postcard request to the Distribution Section at the above address.

FOR FURTHER INFORMATION CONTACT:

About a specific rulemaking action listed in this agenda—the contact person listed below. About this agenda—Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board is publishing this Agenda of

Significant Rules under Development or Review as part of its voluntary implementation of Executive Order 12044, *Improving Government Regulations*. The Board's previous agenda appears at 44 FR 65104, November 9, 1979.

This agenda is divided into two main categories, *Rules Under Development* and *Existing Rules under Review*, and an Appendix. An action to amend an existing part of the Code of Federal Regulations is not necessarily listed as an existing rule under review. If it does not involve a reexamination of the basic policy and purpose of that part, it is listed as a rule under development. The Appendix lists rulemaking that appeared in the previous agenda and has since been completed or terminated.

For each rulemaking action listed in this agenda, the following information is set out: title; the name, office abbreviation, and telephone number of a knowledgeable Board official to contact for further information; status of the action; and description. Addresses for all contact persons are Civil Aeronautics Board, Washington, D.C. 20428. Unless otherwise noted, the legal authority for a rulemaking action is the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978.

Statements in the status column that a notice or advance notice of proposed rulemaking is in preparation indicate that the staff is preparing a draft for Board action. They do not imply that the proposal will necessarily be issued, that the Board has endorsed the substance of the proposal, or that the petition (if any) prompting the rulemaking activity will necessarily be granted.

Although this agenda is intended to list all significant Board regulations that are under development or review, it is not a complete guide to all significant rulemaking activity for the 6 months until publication of the next agenda. First, new rulemaking actions may arise

and be completed between now and then. Second, we may have inadvertently omitted one or more items. Any such omission shall not preclude the Board from taking action on the item, and shall not be a ground for judicial review of the rule.

Abbreviations Used in This Agenda

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1301 *et seq.*, including amendments made by the Deregulation Act and the international Air Transportation Competition Act, Pub. L. 96-192, 94 Stat. 35.

"Deregulation Act" means the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1705.

"CFR" means Code of Federal Regulations.

"FR" means Federal Register.

"ANPRM" means advance notice of proposed rulemaking.

"NPRM" means notice of proposed rulemaking.

Office abbreviations: BCP—Bureau of Consumer Protection; BDA—Bureau of Domestic Aviation; BIA—Bureau of International Aviation; OEA—Office of Economic Analysis; OGC—Office of the General Counsel; OCR—Office of Civil Rights.

ER-, EDR-, SPR-, SPDR-, and similar designations appearing in parenthesis after a Federal Register citation are the Board's internal designations for final rules and proposed rules. Using these designations, interested persons can obtain copies of documents from the Distribution Section at the address listed above. The Distribution Section will also establish and maintain a list of persons wishing to receive copies of future agendas.

Accordingly, the Civil Aeronautics Board publishes the attached Agenda of Significant Regulations under Development or Review.

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.

Rules Under Development

Title	Contact person	Status	Description
I. Small Community Air Service Program			
1. Procedures for compensating air carriers for losses (14 CFR Part 324)	David Schaffer, OGC, 202-673-5442	Interim Rule 44 FR 42171, July 14, 1979 (PR-209). Request for comments on interim rule, 44 FR 42171, July 19, 1979 (PDR-67, Docket 36128). Comment period closed September 17, 1979.	The Board can order an airline to continue to provide essential air service to a community while the agency tries to find a replacement airline, but it must compensate the incumbent airline for any financial losses incurred in complying with the order. This rule governs proceedings for determining the compensation for the incumbent airline's losses.

Rules Under Development—Continued

I. Small Community Air Service Program—Continued

Title	Contact person	Status	Description
2. Determining the number of seats needed to provide essential air service (14 CFR Part 398).	David Schaffer, OGC, 202-673-5442	Final Rule, 44 FR 65584, November 14, 1979 (PS-89). Request for comments on final rule, 44 FR 65583, November 14, 1979 (PSDR-64, Docket 34650). Comment period closed January 14, 1980.	Under guidelines for determining the level of essential air service for small communities, the Board first determines the number of passengers that will need to be accommodated. It then determines the number of available seats it needs to guarantee, on the assumption that the average load factor (percentage of seats filled) will be 60 to 65 percent. That figure is based on normal load factors with large aircraft. This amendment lowered that figure, to reflect the fact that with smaller aircraft a lower load factor is needed to ensure the same likelihood that no passengers will be denied a seat.
3. Essential air service subsidy guidelines	John R. Hokanson, BDA, 202-673-5368, or David Schaffer, OGC, 202-673-5442	NPRM in preparation	The Board provides subsidy to airlines to ensure that small communities receive essential air service at a level determined in accordance with 14 CFR Part 398 (see entry Nos. 2 and 3 in this agenda). This rule would implement section 419(d) of the Act, which directs the Board to establish guidelines for computing the fair and reasonable amount of compensation necessary to guarantee that level of service.
4. Obligation of carriers to provide adequate service at eligible points (14 CFR Part 398).	David Schaffer, OGC, 202-673-5442	NPRM in preparation	The Board has set essential air service levels under section 419 of the Act for eligible points (small communities). Some of these points are being served by air carriers that are not providing the required level of service. This rule would establish a new policy under which the Board would rely on the "adequate service" provision of section 404(a) of the Act as authority to order these carriers to provide adequate (i.e., essential) service at points they now serve.
5. Schedule listings and delays in discontinuing service (14 CFR Part 323).	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 20117, March 27, 1980 (PDR-70, Docket 37905). Comments were due May 27, 1980.	This rule would make two changes in the Board's regulation that requires airlines to provide notice before discontinuing certain types of air service. First, airlines would have to maintain all generally-distributed schedule listings of flights for which notice had been filed, until discontinuance is permitted by the Board. Second, airlines would have to discontinue service within 60 days after the intended date stated in the notice (unless required to serve longer by the Board) or else file a new notice of discontinuance.

II. Fares, Rates, and Tariffs

6. Price advertising of air transportation	David Schaffer, OGC, 202-673-5442	ANPRM, 42 FR 30376, June 14, 1977 (EDR-328/SPDR-58/PSDR-48, Docket 30667). Comment period closed August 25, 1977. Reply comment period closed September 15, 1977.	The Board is examining whether there is a need for specific rules to prevent deception in advertising of air fares.
7. Scheduled-service air transportation sold by contract.	Barbara Badian, BDA, 202-673-5373	ANPRM in preparation	This rule would give airlines an exemption to sell air transportation in domestic scheduled service by contract without filing or adhering to a filed tariff. The general purpose of the rule would be to encourage fare competition and assist in the transition to a deregulated environment.
8. Plain English for airline/passenger contracts.	Patricia J. Kennedy, BCP, 202-673-5158	NPRM in preparation	Contracts between airlines and their passengers are governed by tariffs, which are filed with the Board and available for inspection at airline ticket offices. Although tariffs are complicated and relatively inaccessible documents, passengers are presumed to have read them and consented to their terms and conditions. Over the past several years, many businesses have developed "plain English" contracts so that customers clearly understand what they are agreeing to. The Board is examining how this approach might be applied to airline/passenger contracts, and whether the presumptive notice concept should be permitted for exculpatory rules.
9. Elimination of mandatory joint fares	Barry L. Molar, BDA, 202-673-5373	NPRM preparation	The mandatory joint fare requirements established in the <i>Domestic Passenger Fare Investigation</i> will end by January 1, 1983, with the end of the Board's jurisdiction over domestic passenger fares. The Board is considering whether to eliminate the mandatory joint fare program sooner or to phase it out.
10. Involuntary Refunds	Patricia Kennedy, BCP, 202-673-5158	NPRM in preparation	Airlines now charge passengers for the transportation actually used, even when the flight does not reach the ticketed destination. This rule would require airlines to give passengers who are stranded by a schedule irregularity the option of returning to their point of origin on the first available flight and receiving a refund.
11. Intrastate Standard Industry Fare Levels (14 CFR Part 399).	Laurie S. Schaffer, BDA, 202-673-5009, or Mark S. Kahan, BDA, 202-673-5371.	Interim rule, 44 FR 9940, February 15, 1979 (PS-82). NPRM, 45 FR 2018, January 10, 1980 (PSDR-55B, Docket 34683). Comment period closed February 8, 1980.	The Board's zones of fare flexibility are based on a standard industry fare level (SIFL). This rule would allow the intrastate SIFL to rise to the interstate SIFL. In the interim rule, the Board provided for a gradual equalization of the intrastate and interstate SIFL. However, due to changed circumstances in the airline industry that may discourage service in the intrastate markets, the Board is considering a rule that would provide complete equalization immediately.

Rules Under Development—Continued

Title	Contact person	Status	Description
II. Fares, Rates, and Tariffs—Continued			
12. Pre-filing tariff approval for fare reductions (14 CFR Part 221).	Thomas Moore, BDA, 202-673-5038	NPRM, 45 FR 31411, May 13, 1980 (EDR-402/ODR-21, Docket 38147). Comments are due June 16, 1980.	This rule would set up a procedure to minimize delay in acting on domestic passenger fare reduction proposals. If an airline filed an application for a fare decrease in the morning, the Board would take action on it the same day, and the airline could begin charging the fare the next day.
13. International cargo rate flexibility (14 CFR Part 399).	Mark Frisbie, OGC, 202-673-5423	NPRM, 45 FR 3595, January 19, 1980. (PSDR-65, Docket 37444). Comment period closed April 9, 1980.	This rule would establish a policy of not reviewing international cargo rate changes for economic justification if the changes were below a prescribed ceiling, except in extraordinary circumstances. The ceiling would be set initially at the October 1, 1979, rate levels for general commodity rates, and would be periodically adjusted for operating cost increases.
14. International cargo rate policy—further changes (14 CFR Part 399).	Mark Frisbie, OGC, 202-673-5423	ANPRM in preparation	This notice would invite comments on the broad question of what the Board's cargo rate policy should be, to advise the Board on future rulemaking or legislative proposals.
III. Charters			
15. Charter flight delays	Mark Schwimmer, OGC, 202-673-5442	NPRM, 42 FR 64905, December 29, 1977 (EDR-343, Docket 31229). Comment period closed April 14, 1978. Reply comment period closed May 15, 1978.	This rule would tighten the existing rules on flight delays by U.S. charter airlines and extend those rules to passenger charter flights of all types of direct air carriers, other than air taxi operators.
16. Removal of limitations on cargo chargers (14 CFR Parts 207, 208, 212, 214).	Mark Frisbie, OGC, 202-673-5442	NPRM, 44 FR 50607, August 29, 1979 (EDR-351B/SPDR-73, Docket 31788). Comment period closed October 29, 1979.	This rule would allow cargo to be carried on the main deck of the aircraft on split passenger/cargo charters, would eliminate for cargo charters the requirement that the entire aircraft be engaged in the aggregate, and would allow part charters of cargo on scheduled cargo or combination flights. It would also require passenger charter operators to state in their contracts with individual participants, in boldface type, the baggage allowance and charges for each passenger.
17. Minimum contract size and notice provisions for pro rata and single-entity charters (14 CFR Parts 207, 208, 212, 214).	Mark Frisbie, OGC, 202-673-5442	NPRM, 44 FR 36065, June 20, 1979 (EDR-382, Docket 34533). Comment period closed August 20, 1979.	This rule would reduce from 40 persons to 20 the minimum contract size for pro rata, or "affinity," charters and for single-entity charters. It would also require a notice in all solicitation materials for pro rata charters, to warn participants of the lack of consumer protection provisions.
18. Review of foreign air carrier charter authority (14 CFR Parts 212, 214).	Mark Frisbie, OGC, 202-673-5423	NPRM, 45 FR 2331, January 11, 1980 (EDR-394, Docket 35046). Comment period closed March 11, 1980.	This rule would amend the Board's prior authorization requirements for charters by foreign air carriers. Prior approval would be required for "fifth freedom" charter flights, instead of "off-route" charters, as required under the present rules.
19. Escrow accounting for Public Charters (14 CFR Part 380).	Mark Frisbie, OGC, 202-673-5423	NPRM, 44 FR 32399, June 6, 1979 (SPDR-69, Docket 350705). Comment period closed August 6, 1979.	This rule would amend the escrow system for the protection of Public Charter passengers' funds, to simplify the accounting procedures and to eliminate a limitation on disbursements by the escrow bank.
20. Elimination of off-route charter restrictions (14 CFR Part 207).	Mark Frisbie, OGC, 202-673-5442	NPRM, 44 FR 41828, July 18, 1979 (EDR-383, Docket 36113). Comment period closed September 17, 1979.	This rule would continue the Board's liberalization of its charter rules by lifting the remaining restrictions on off-route charters by U.S. airlines.
21. Registration of foreign charter operators	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 26084, April 17, 1980 (EDR-398/SPDR-77/ODR-20, Docket 38023). Comments are due June 16, 1980.	This rule would replace the requirement that foreign charter operators obtain a foreign air carrier permit under section 402 of the Federal Aviation Act with a simple registration requirement, to ease market entry and promote competition.
22. Charter consumer protection against major changes (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	The Board's current rules establish a cancel-with-refund remedy scheme for charter participants who are confronted with "major changes" in the tour packages that they have purchased. This rule would clarify that scheme so that it cannot be misinterpreted as excusing changes that are so substantial as to amount to non-performance by the charter operator.
23. Charter price flexibility (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	The Board's current rules allow charter operators, in their contracts with participants, to reserve the right to increase the charter price up to 10%, as long as the increase occurs 10 or more days before departure. The Board is considering whether to eliminate this flexibility, to retain it as is, to retain it but require increases to be cost-justified, or to increase the flexibility.
24. Registration procedures for Canadian small charter carriers.	Ira Leibowitz, BIA, 202-673-6070	NPRM in preparation	This rule would simplify the procedure for Canadian small charter air carriers to obtain foreign air carrier permits under section 402. Instead of the extensive information normally required by 14 CFR Part 211, these carriers would merely provide an abbreviated list of information on a registration form, which would be processed more speedily than regular permit applications.
25. Removal of limit on agent commissions for charters (14 CFR Parts 207, 208, 212, 214).	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 26083, April 17, 1980 (EDR-397, Docket 37063, 38022). Comment period closes June 16, 1980.	This rule would remove the limitation on the commission that air carriers can pay to travel agents for pro rata and single-entity charters. It would also make other changes in the rules governing those charters. It responds to a petition from the Performance Incentives Company.
26. Direct carrier responsibility for returning stranded charter passengers (14 CFR Parts 207, 208).	David Schaffer, OGC 202-673-5442	Petition filed in Docket 37169. NPRM in preparation.	Golden Holiday Tours, Inc., has petitioned the Board to make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services.

Rules Under Development—Continued

Title	Contact person	Status	Description
III. Charters—Continued			
27. Using insurance policies to protect Public Charter passengers' funds (14 CFR Parts 207, 208, 212, 214, 380).	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 36958. NPRM in preparation.	Wardair Canada, LTD, has petitioned the Board to authorize insurance plans as an additional alternative to the security arrangements now permitted for Public Charter passengers' funds.
IV. Miscellaneous			
28. Nondiscrimination on the basis of handicap.	Mary Candace Fowler, BCP 202-673-5158	NPRM, 44 FR 32401, June 6, 1979 (SPDR-70, Docket 34030). Comment period closed September 4, 1979. Reply comment period closed September 24, 1979.	This rule would prohibit unlawful discrimination against handicapped air travelers and implement section 504 of the Rehabilitation Act of 1973.
29. Consumer protections for members of scheduled-service tour groups.	David Schaffer, OGC, 202-673-5442	ANPRM, 44 FR 43481, July 25, 1979 (SPDR-71, Docket 34997). Comment period closed October 23, 1979. Reply comment period closed November 22, 1979.	The Board has invited comments on whether consumer protection rules are needed for scheduled-service tours, on the Board's statutory authority to prescribe such rules, and on the form that those rules might take.
30. Air carrier fitness.	Paul Gretch, BDA, 202-673-5373	NPRM, 44 FR 44106, July 26, 1979 (EDR-385, Docket 36176). Comment period closed October 15, 1979. Reply comments were due November 5, 1979.	This rule would describe the information that must be filed with the Board by applicants for passenger route authority and commuter air carriers serving points that may be eligible for subsidy, so that the Board can determine their fitness. "Fit" means fit, willing, and able to perform the air transportation in question properly and to conform with the Federal Aviation Act and Board requirements issued under the Act.
31. Zones for mail rates.	Mark S. Kahan, BDA, 202-673-5371 or Lawrence Myers, OGC, 202-673-5791.	NPRM, 44 FR 52246, September 7, 1979 (EDR-387/PDR-68, Docket 36497). Comments are due November 5, 1979. Reply comments are due November 20, 1979.	This rule would end the Board's current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by the Board, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone.
32. Reporting of air cargo traffic (14 CFR Parts 291, 296).	Clifford M. Rand, OEA, 202-673-6044	Petition filed in Docket 36544. NPRM in preparation.	The Air Freight Forwarders Association has petitioned the Board to increase requirements that airlines and freight forwarders file reports of their cargo traffic, to monitor the effects of air cargo deregulation.
33. Age discrimination.	David Schaffer, OGC, 202-673-5442	NPRM, 44 FR 55383, September 26, 1979 (SPDR-74, Docket 36639). Comment period closed November 26, 1979. A final rule was adopted by the Board on April 10, 1980, and was forwarded to the Secretary of HEW for approval, as required by the Age Discrimination Act.	This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975.
34. Policy statement on preemption (14 CFR Part 399).	Michael Schopf, OGC, 202-673-5234	Interim rule 44, FR 9948, February 15, 1979 (PS-83). Request for comments on interim rule, 44 FR 9953, February 15, 1979 (PSDR-56, Docket 34684). Comment period closed April 16, 1979.	This rule sets out interim Board policies for regulation of intrastate routes of airlines that have interstate authority. The Board has concluded that under section 105 of the Act it, not the States, is responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.
35. Insurance for air carriers.	J. Kevin Kennedy, BDA, 202-673-5088 or Richard Loughlin, BIA, 202-673-5880.	NPRM, 45 FR 7566, February 4, 1980 (EDR-395, Docket 37531). Comment period closed April 15, 1980. Reply Comment period closed May 6, 1980.	This rule would establish liability insurance requirements for all U.S. and foreign direct air carriers, to protect the public against losses caused by those carriers. The rule would implement section 401(q)(1) of the Act, as added by the Deregulation Act.
36. Dual authority (14 CFR Part 298).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	Airlines that use only small aircraft are already exempt from many regulatory requirements of the Act. This rule would grant similar exemptions to certificated airlines (which usually operate large aircraft) for their small aircraft operations, in order to promote competition.
37. Liberalized regulation of wet lease agreements (14 CFR Parts 207, 208, 212, 214, 289, 399).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	This rule would liberalize the restrictions on wet leases (leases or aircraft with crew) between airlines, to eliminate unnecessary barriers to competition.
38. Mandatory participation in Passenger Origin-Destination Survey (14 CFR Part 241).	Clifford M. Rand, OEA, 202-673-6044	NPRM, 44 FR 67140, November 23, 1979 (EDR-392, Docket 37088). Comment period closed January 21, 1980.	This rule would require all certificated air carriers to participate in a Passenger Origin-Destination Survey based on a continuous sample of passenger tickets. This information is needed to serve a broad range of regulatory programs still being conducted by the Board.
39. Employee protection program	Michael Schopf, OGC, 202-673-5234	NPRM in preparation	Section 43 of the Airline Deregulation Act of 1978 established an employee protection program. Eligible protected employees may receive monthly assistance payments from the Secretary of Labor if the Board determines that a qualifying dislocation of an airline has taken place. This rule would set forth procedures for those Board determinations. 40. Airline Responsibility for Schedule Changes and Irregularities
	Mary Candace Fowler, BCP, 202-673-5158	ANPRM in preparation	As airlines have been exercising greater freedom to enter and leave markets, the Board has begun to examine what, if any, obligations airlines should have to rebook affected passengers, protect their discount fares, and provide prompt notice of schedule changes. The Board will also consider what consumer protections should apply to situations like strikes and aircraft groundings
41. Advertising of Flights as "Direct"	Brinley H. Williams, BCP, 202-673-5937	NPRM in Preparation	This rule would prohibit airlines from advertising flights as "direct" when there is a change of aircraft.

Existing Rules Under Review

Title	Contact person	Status	Description
42. Elimination of airport notices and approved service plans (14 CFR Parts 202 and 213).	Patricia DePuy, BIA, 202-673-5878	NPRM in preparation	The Board is reviewing the requirements that airlines file airport notices and changes in approved service plans, with a view toward eliminating them.
43. Rules governing performance of charter flights by different types of direct air carriers (14 CFR Parts 207, 208, 212, 214).	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	These rules, which are largely duplicative, would be consolidated and simplified.
44. Reduction of evidence requirements for foreign air carrier permit renewals (14 CFR Part 211).	Regis P. Milan, Jr., BIA, 202-673-5878	NPRM in preparation	Under this rule, foreign air carriers applying for routine renewals or amendments of their permits would, if previous unopposed licensing proceedings had met certain evidentiary standards, be excused from resubmitting certain evidence whose continuing validity could be attested to.
45. Reporting of civil aircraft charters (14 CFR Parts 217 and 241).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	This rule would significantly reduce the Board's charter data reporting requirements.
46. Ticket notices and ticket office counter signs (14 CFR Parts 221, 250, 255, 298).	Mary Candace Fowler, BCP, 202-673-5158	NPRM, 45 FR 25817, April 16, 1980 (EDR-396, Docket 38021). Comments are due June 16, 1980. Reply comments are due July 7, 1980.	This rule would revise and simplify the requirements that airlines disclose certain information to consumers on passengers' tickets and counter signs. It would also consolidate those requirements in a new Part 255.
47. Airline Credit/Interest Rates (14 CFR 221.38).	Mary Candace Fowler, BCP, 202-673-5158	NPRM in preparation	Current rules enable airlines to charge interest in excess of state usury laws for air transportation that is paid for with airline-issued credit cards. This rule would make airlines subject to usury laws in the card holder's home state.
48. Liability for Lost, Delayed, and Damaged Baggage (14 CFR Part 221).	Joseph A. Brooks, OGC, 202-673-5442	NPRM in preparation	The Board is reviewing the current baggage liability limits and rules. This rule would adjust the limits to reflect changes in the cost of living index, and would place baggage carriage rules into the Code of Federal Regulations.
49. Fare summaries (14 CFR Part 221a)	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 35139. Petition granted, 44 FR 57085, October 4, 1979 (Order 79-8-116).	This rule requires certificated schedule airlines to provide concise information to the public about the various fares they offer in domestic air transportation. It is designed to provide enough information to enable consumers to make an informed choice of fare plan. Fare summaries do not seem to have received a great deal of attention from passengers, however. In response to a petition from American Airlines, the Board is reviewing this rule to decide how it might be improved, or whether it should be abolished and some other fare information requirement should be imposed. The Board has also waived the effectiveness of the rule, pending the review.
50. Regulation of intermodal services of foreign air carriers (14 CFR Part 222).	Joseph DiBella, BIA, 202-673-5035	NPRM in preparation	This rule would eliminate Board restrictions on surface cargo transportation in connection with air transportation except in those cases where intermodal cargo services of foreign air carriers must be restricted for foreign aviation policy reasons. The Board would also discontinue its requirement that carriers file separate tariffs for pick-up-and-delivery services.
51. Barter and free or reduced-rate transportation for promotional purposes (14 CFR Part 223).	Mark S. Kahan, BDA, 202-673-5371 or David Schaffer, OGC, 202-673-5442.	NPRM, 44 FR 64429, November 7, 1979 (EDR-391, Docket 35392). Comment period closed January 7, 1979.	This rule would allow airlines to provide free or reduced rate travel in exchange for goods and services or to persons involved in promoting air transportation.
52. On-time arrival standards (14 CFR Part 234).	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 27891. NPRM in preparation.	The Aviation Consumer Action Project has petitioned the Board to restate its on-time arrival standards in terms of actual-versus-scheduled arrival times, instead of actual-versus-scheduled elapsed times.
53. Air carrier accounting and reporting requirements (14 CFR Part 241).	Clifford M. Rand, OEA 202-673-6044.	NPRM, 44 FR 77189, December 31, 1979 (EDR-393, Docket 34015). Comment period closed February 26, 1980.	As a first step in a major review of its largest reporting system, the Board has proposed the elimination of ten financial reporting schedules and solicited comments on alternatives to a petition filed by the Air Transport Association to eliminate monthly financial reporting.
54. Air carrier financial and statistical reporting (14 CFR Part 241).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	As a second step in a major review of its largest reporting system, the Board expects to eliminate, consolidate, and refine a substantial number of financial and statistical reporting schedules to reduce reporting burdens on all certificated air carriers. Particular emphasis will be placed on reducing the burdens of small air carriers.
55. Commuter Financial and Traffic Data (14 CFR Parts 241, 298).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	This rule would modify statistical reporting requirements and impose financial reporting requirements on some commuter carriers, to assist in the administration of essential air service programs.
56. Military Airlift Command data reports (14 CFR Part 243).	Clifford M. Rand, OEA, 202-673-6044	NPRM in preparation	This rule would eliminate certain financial and statistical reporting that no longer appears necessary.
57. Revision of record-retention requirements (14 CFR Part 249).	Clifford M. Rand, OEA, 202-673-6044	NPRM, 43 FR 50150, October 26, 1978 (EDR-365, Docket 33725). Comment period closed January 26, 1979.	This would be the first major revision of the Board's record-retention requirements since 1957. It is designed to make them less burdensome and easier to understand and administer.
58. Denied boarding compensation (14 CFR Part 250).	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 30086, May 7, 1980 (EDR-400, Docket 36294). Comments are due July 7, 1980.	Airlines are required to pay denied boarding compensation to passengers who are bumped from their flights. This rule would clarify the applicability of that requirement to extra sections of flights. The rule would also eliminate a minor exception to the requirement.

Existing Rules Under Review—Continued

Title	Contact person	Status	Description
59. Denied boarding compensation—small aircraft (14 CFR Part 250).	Lawrence R. Krevor, BDA, 202-673-5333	ANPRM, 45 FR 31413, May 13, 1980 (EDR-401, Docket 38108). Comments are due June 30, 1980. Reply comments are due July 10, 1980.	The Board has invited comments on whether, and in what form, its oversales and denied boarding rules should apply to commuter air carriers and to certificated carriers operating small (less than 60-seat) aircraft.
60. Smoking on airplanes (14 CFR Part 252).	David Schaffer, OGC, 202-673-5442	A: Final rule, 44 FR 5071, January 25, 1979 (ER-1091). NPRM, 44 FR 29486, May 21, 1979 (EDR-377, Docket 29044). Editorial correction of NPRM, 44 FR 33410, June 11, 1979 (EDR-377A). Comment period closed August 20, 1979. Reply comment period closed September 19, 1979. B: NPRM, 45 FR 26976, April 22, 1980 (EDR-399; Docket 38048). Comment period closes June 23, 1980. C: Petition filed in Docket 37657	A: In January, 1979, the Board amended its rules on smoking aboard aircraft to provide passengers more effective protection from tobacco smoke. The new requirements include special segregation of cigar and pipe smokers, a minimum of two rows of seats in the no-smoking areas for all persons who wish to be seated there, with provision for expansion of those areas to meet passenger demand. In May, 1979, the Board proposed further changes, including special seating for susceptible passengers, buffer zones, and special locations for cigar and pipe smoking. Other options include a ban on cigar and pipe smoking, and prohibitions based on the type of aircraft (for example, banning smoking on planes with 30 or fewer seats) or length of flight (for example, banning smoking on all flights of less than 1 hour). B: This rule would permit airlines to refuse to expand the no-smoking section for standby passengers and those who check in less than 5 minutes before scheduled departure. C: The Board is also considering a petition to eliminate the smoking rule entirely.
61. Elimination of commission-filing requirement (14 CFR Parts 253, 399.85).	David Schaffer, OGC, 202-673-5442	NPRM, 44 FR 28670, May 16, 1979 (EDR-376/PSDR-60, Docket 35514). Comment period closed July 16, 1979.	This rule would eliminate the requirement that airlines file with the Board schedules of the commissions that they pay travel agents. The usefulness of those filings does not appear to be justified by their cost, and the requirement may tend to dampen competition.
62. Alaskan subcontract agreements (14 CFR Part 293).	David Schaffer, OGC, 202-673-5442	NPRM in preparation	Part 293 applies to subcontract agreements involving the operation of scheduled air services by air taxi operators over Alaskan bush routes of a certificated air carrier. The Board is considering whether to revoke this rule and replace it with a simpler filing requirement.
63. Rules of Practice in Enforcement Proceedings (14 CFR Part 302).	Howard M. Schmeltzer, BCP, 202-673-5937	NPRM in preparation	This rule would simplify and clarify Board procedures, and expedite the resolution of formal enforcement proceedings.
64. Nonpublic Investigation by the Bureau of Consumer Protection (14 CFR Part 305).	J. Craig Weller, BCP, 202-673-5943	NPRM in preparation	This rule would clarify and simplify the procedures for conducting nonpublic investigations.
65. Information submitted in merger applications (14 CFR Part 315).	David Schaffer, OGC, 202-673-5442	Interim rule, 45 FR 23646, April 8, 1980 (PR-221). Request for comments on interim rule in preparation.	This rule sets forth the information that must be submitted with a section 408 merger application. It is needed to enable the Board to meet the 6-month deadline imposed by the Act for issuing a final order or decision in a merger case.
66. Protection of charter participants' funds (14 CFR Parts 371, 372a, 373, 378, 378a, and others).	Mark Schwimmer, OGC, 202-673-5442	A. NPRM, 42 FR 61408, December 2, 1977 (SPDR-63, Docket 31735). Comment period closed June 30, 1978. Reply comment period closed July 31, 1978. B. NPRM in preparation. C. ANPRM in preparation.	A. The Board has been reviewing the patchwork of redundant, and sometimes inconsistent, regulations for the protection of charter participants' funds, with a view towards establishing a simpler, uniform set of requirements. The redundancies and inconsistencies were largely eliminated when five different charter regulations were replaced by the Public Charter rule, 14 CFR Part 380. B. This rule would increase the period of time from 60 to 120 days for tour participants to file claims against a charter operator's bond. By the time many people have found the operator against whom they can file, 60 days have passed. C. This rule would establish a trust fund in place of existing financial security provisions for the protection of charter participant funds.
67. Monthly billing of political candidates by airlines (14 CFR Part 374a).	Joseph A. Brooks, OGC, 202-673-5442	NPRM, 45 FR 25825, April 16, 1980 (SPDR-76, Docket 35042). Comments were due May 15, 1980.	This rule would allow airlines to bill political candidates for Federal office on a monthly basis during the last two months of the campaign, rather than semimonthly.
68. Navigation of foreign civil aircraft (14 CFR Part 375).	George Wellington, BIA, 202-673-5878	NPRM in preparation	The Board is reviewing its regulations governing the navigation of foreign civil aircraft within the United States. The review will focus on simplifying and clarifying the procedures to be followed in obtaining operating authority, and on ensuring that conditions imposed on such operations satisfactorily serve the public interest.
69. Nondiscrimination in Federally assisted programs of the Board (14 CFR Part 379).	Kenneth G. Kaplan, OGC, 202-673-5790 or Shawn D. Land, OCR, 202-673-5544	NPRM in preparation	The Board is reviewing its rules that implement title VI of the Civil Rights Act of 1964, in response to suggestions from the Department of Justice.

Existing Rules Under Review—Continued

Title	Contact person	Status	Description
70. Domestic passenger fare standards (14 CFR Part 399, Subpart C).	Julien Schrenk, BDA, 202-673-5298 or Norman D. Schwartz, BDA, 202-673-5056, except on Alaska contact: Robert S. Goldner, OGC, 202-673-5205.	Final rule, 43 FR 39522, September 5, 1978 (PS-80). Final rule, 45 FR 24115, April 9, 1980 (PS-92, Docket 31290). NPRM, 45 FR 24178, April 9, 1980 (PSDR-66, Docket 37982). Comment period closed May 12, 1980. NPRM on Puerto Rico/Virgin Islands, 43 FR 51641, November 6, 1978 (EDR-366/PDR-58/PSDR-52, Docket 33836). Comment period closed December 18, 1978. Reply comment period closed January 2, 1979. NPRM on Hawaii, 44 FR 18688, March 29, 1979 (EDR-373/PDR-64/PSDR-57, Docket 35119). Revised NPRM on Hawaii, 44 FR 28826, May 17, 1979 (EDR-373A/PDR-64A/PSDR-57A). Comment period closed May 29, 1979. Reply comment period closed June 19, 1979. NPRM on Alaska, 44 FR 52847, September 11, 1979 (EDR-388/PSDR-63, Docket 29198). Comment period closed November 13, 1979. Reply comment period closed November 28, 1979.	In Summer, 1978, after a review of the entire body of pricing standards developed in the <i>Domestic Passenger Fare Investigation</i> , the Board ended its practice of prescribing normal fares in the continental United States. Airlines were instead allowed the flexibility to set fares within a specific zone without fear of suspension by the Board. The Airline Deregulation Act of 1978 confirmed this policy by establishing a "zone of reasonableness" within which the Board could not find any domestic fare unlawful. In PS-92 the Board amended its general policy statement on fare flexibility to reflect the Deregulation Act. In PSDR-66, the Board proposed to broaden its zone. On May 13, 1980, the Board approved an interim policy of full downward fare flexibility in all markets and upward flexibility as follows: unlimited, for markets up to 200 miles; up to 50 percent above the standard industry fare level for markets from 201 to 400 miles; and up to 30 percent above the standard industry fare level for markets above 400 miles. The Board will suspend fares in this zone only in limited circumstances. The Board has also proposed broadened flexibility for Puerto Rico, Virgin Islands, Hawaii, and Alaska Markets.

Appendix.—Rulemaking Completed or Terminated Since Previous Agenda

[Numbers in brackets are entry numbers from previous agenda.]

Title	Contact person	Status	Description
[1.] Notice procedures for terminations and reductions of service (14 CFR Part 323).	Mark Frisbie, OGC, 202-673-5423	Final rule, 45 FR 20065, March 27, 1980 (PR-219, Docket 35197).	These notice procedures for airlines that are discontinuing or reducing passenger service help the Board guarantee essential air service to small communities as required by section 419 of the Act, added by the Deregulation Act, and they give the public advance warning of significant cutbacks in service.
[5.] Criteria for designating additional points eligible for subsidy (14 CFR Part 270).	Patrick V. Murphy, BDA, 202-673-5408	Final rule, 44 FR 76767, December 28, 1979 (ER-1166, Docket 36816).	The Board's small community air service program guarantees essential air service, with subsidy if necessary, to "eligible points". The initial set of eligible points is established in section 419(a) of the Act; this rule implements section 419(b), which directs the Board to establish objective criteria for designating additional eligible points.
[7.] Policy statement on price discrimination (14 CFR Part 399).	Mark S. Kahan, BDA, 202-673-5371	Final rule	Airlines are now generally free to establish domestic passenger fares within broad zones without Board interference. However, they remain subject to the prohibitions in section 404(b) of the Federal Aviation Act against unjust discrimination and undue or unreasonable prejudice or preference in pricing. These prohibitions expire on January 1, 1983, along with the rest of the Board's jurisdiction over domestic passenger fares. This policy statement modifies and clarifies the Board's interpretation of those prohibitions.
[8.] Advance notice of tariff filings (14 CFR Parts 221 and 399).	Mark Schwimmer, OGC, 202-673-5442 or Robert Klothe, BDA, 202-673-6064.	Final rule, 45 FR 20059, March 27, 1980 (ER-1171, Docket 36202).	This rule relaxed the Board's requirements for advance notice of proposed tariff changes to permit airlines to more quickly implement rate and fare changes, particularly rate and fare reductions. The changes removed unnecessary regulatory obstacles to a more competitive and dynamic pricing system.
[9.] International passenger fare standards	Mark S. Kahan, BDA, 202-673-5371	Rulemaking terminated	Within a broad zone that is based on a standard industry fare level, airlines are currently free to establish their domestic passenger fares at whatever level their business judgment dictates. The Board was considering establishing a similar system for international passenger fares, but this item has been mooted by passage of the International Air Transportation Competition Act, Pub. L. 96-192. That law established a zone for international passenger fares.
[14.] Refunds of Unused Tickets	Glenn W. Wienhoff, BCP, 202-673-5482	Rulemaking terminated	This rule would have established deadlines for carriers to make refunds to consumers for unused tickets. The rulemaking has been terminated because it appears that the Board has adequate power in this area under section 411 of the Act and its enforcement of Regulation Z of the Board of Governors of the Federal Reserve System.

Appendix.—Rulemaking Completed or Terminated Since Previous Agenda—Continued

[Numbers in brackets are entry numbers from previous agenda.]

Title	Contact person	Status	Description
[21.] Part charters (14 CFR Parts 207, 208, Mark Schwimmer, OGC, 202-673-5442 212, 214).		Rulemaking terminated.	Current rules prohibit airlines from providing charter and scheduled service on the same aircraft. This rule would have allowed such combinations. The rulemaking has been terminated because part charters have been prohibited until December 31, 1981, by the International Air Transportation Competition Act, Pub. L. 96-192.
[25.] Cooling-off period for charter participants who have experienced major changes (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	Rulemaking terminated	When a charter operator offers a refund to a participant who rejects a major change in a tour package, the operator is allowed to condition the refund on the participant's agreeing to waive any other claims he or she may have against the operator as a result of the change. This rule would have established a cooling-off period that would allow participants to reconsider their acceptance of the refund and accompanying waiver, in order to pursue other remedies. This proceeding has been terminated because a rule does not appear to be necessary.
[26.] Advertising and Sale of Super Bowl Charter Trips (14 CFR Part 380).	David Schaffer, OGC, 202-673-5442	Final rule, 45 FR 1855, January 9, 1980 (SPR-168, Docket 37183).	This rule requires charter operators marketing charters to the NFL Super Bowl to file proof of their possession of game tickets or their contract for the game tickets with the Board before advertising or accepting money for the charter. It also gives consumers the right to receive a full refund if they do not receive the promised game tickets.
[29.] Extensions of credit by airlines to political candidates (14 CFR Part 374a).	Joseph A. Brooks, OGC, 202-673-5442	Final Rule, 45 FR 25795, April 16, 1980 (SPR-169, Docket 35042).	This rule extended the time within which a political candidate must pay an airline's monthly bills from 14 to 25 days, to bring that payment period into line with the period that airlines normally use in dealing with the public. It amended 14 CFR Part 374a, which implements section 401 of the Federal Election Campaign Act of 1971.
[30.] Liberalized regulation of foreign indirect cargo carriers (14 CFR Part 297).	Joseph Di Bella, BIA, 202-673-5035	Final Rule, 44 FR 69633, December 4, 1979 (ER-1159, Docket 35568).	This rule replaced the requirement that foreign indirect cargo carriers obtain a foreign air carrier permit under section 402 of the Federal Aviation Act with a simple registration requirement. The rule gave foreign air freight forwarders competitive opportunities equal to those of U.S. air freight forwarders, which the Board had previously deregulated.
[57.] Implementation of the National Environmental Policy Act (14 CFR Part 312).	Laurence J. Aurbach, BDA, 202-673-5858 or Arnold G. Konheim, OEA, 202-673-6089.	Final rule, 45 FR 16132, March 12, 1980 (PR-216, Docket 32602).	This rule revised the Board's environmental regulation to adjust for (a) the Board's new policies under deregulation, (b) experience gained since the rule was first adopted, and (c) the Council on Environmental Quality's regulations.
[59.] Liberalized conditions under which charter flights may be sold by indirect air carriers (14 CFR Part 380).	Mark Schwimmer, OGC, 202-673-5442	Final rule adopting 14 CFR Part 380, Public Charters, 43 FR 36604, August 18, 1978 (SPR-149). Final rules revoking 14 CFR Parts 371, 372a, 373, 378, and 378a, 43 FR 36603-4, August 18, 1978 (SPR-150 through SPR-154).	The Board eliminated most restrictions on the sale of charters by indirect air carriers, by adopting the Public Charter rule in August, 1978. There are no longer any Board-imposed advance purchase, minimum stay, ground package, or round-trip requirements. The Public Charter rule replaced five other regulations: Advance Booking Charters, Inclusive Tour Charters, One-stop-inclusive Tour Charters, Travel Group Charters, and Study Group Charters. Those rules have been revoked.

[FR Doc. 80-17118 Filed 6-5-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-62]

Exemption of Mechanical Cogeneration Facilities From the Incremental Pricing Provisions of the Natural Gas Policy Act

Issued May 30, 1980

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rule.

SUMMARY: The Federal Energy Regulatory Commission hereby issues proposed rules under section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) for the exemption of mechanical cogeneration facilities from incremental pricing provisions of Title II of the NGPA. The cogeneration incentive provided through the exemption from incremental pricing is intended to significantly promote energy conservation by cogeneration facilities.

DATES: Requests to participate in the hearing: June 20, 1980, by 4:30 p.m. Copies of Statement at hearing: June 25,

1980, by 4:00 p.m. Written comments on proposed rule: June 30, 1980. Public hearing: July 1, 1980, 10:00 a.m.

ADDRESSES: Written submissions: Office of the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St. NE, Washington, D.C. 20426 (Reference Docket No. RM80-62); The public hearing will be held at the same address in a room to be announced.

FOR FURTHER INFORMATION CONTACT: Clarence Burriss, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106-A, 825 N. Capitol St. NE, Washington, DC 20426 (202) 357-8161.

I. Background

Title II of the Natural Gas Policy Act of 1978 (NGPA) requires that the natural gas used in certain industrial facilities be subject to incremental pricing by means of surcharges. Section 206 of the NGPA establishes certain exemptions from these incremental pricing surcharges. Section 206(c)(3) provides that incremental pricing shall not apply:

(3) to the extent provided by the Commission by rule, any qualifying cogenerator (as defined in section 3(18)(B) of the Federal Power Act, as amended by the Public Utility Regulatory Policies Act of 1978) (PURPA).

On October 5, 1979, the Commission issued rules to implement Title II and establish a mechanism for the incremental pricing program.¹ One provision of the October 5 rules implemented section 206(c)(3) of the NGPA for purposes of the incremental pricing program. This provision exempted from the incremental pricing program all gas used for cogeneration by qualifying cogeneration facilities under section 3(18)(B) of the Federal Power Act. However, at that time the Commission had not promulgated rules establishing the criteria for "qualifying cogeneration facilities" under section 3(18)(B) of the Federal Power Act. In order that the incremental pricing regulations might be workable, the Commission, on November 9, 1979, issued an interim rule for qualification of gas-fired cogeneration facilities for purposes of the incremental pricing program.² This interim rule established an exemption from incremental pricing for cogeneration facilities which were in existence and used natural gas as an energy input on or prior to November 1, 1979.³

On March 13, 1980, the Commission issued a final rule under section 201 of PURPA establishing requirements for a determination of qualifying status for small power production and cogeneration facilities.⁴ This rule maintained criteria established in the interim rule, and also established additional criteria for other facilities not previously eligible under the interim rule⁵ for eligibility for the exemption

from incremental pricing set forth in 18 CFR 282.202(e).

The exemptions, however, were limited under section 3(18)(B) of the Federal Power Act to cogeneration facilities which produce *electric* energy, and another form of useful energy. Cogeneration facilities which produce *mechanical* energy and another form of useful energy are not eligible under the final rule for these exemptions from incremental pricing.

These types of facilities, however, can produce the same fuel efficiencies as can a cogeneration facility producing electric energy and another form of useful energy. Section 206(d) of the NGPA authorizes the Commission to exempt from incremental pricing any other industrial facility or category thereof; any exemption granted by the Commission under 206(d) is subject to Congressional review before it can become effective. The Commission believes that cogeneration facilities which produce mechanical energy should be afforded the same exemption from incremental pricing surcharges as is available to cogeneration facilities which generate electricity.

II. The Rationale for a 206(d) Exemption

Cogeneration involves the production of both useful heat and power through the sequential use of energy. Electricity and forms of energy such as shaft power, compressed air or hydraulic power, are all variations of the high-grade energy form known as mechanical power or energy. Production of any of these mechanical energy forms, with utilization of the reject heat from a facility, represents energy-efficient cogeneration with similar energy saving as is available from cogeneration involving the production of electricity.

The cogeneration incentive provided through the exemption from incremental pricing is intended to significantly promote energy conservation by cogeneration facilities. However, under the existing regulations, only those cogeneration facilities which generate electricity are eligible for the exemption; those producing only mechanical power are excluded. Not only is this distinction inequitable, since energy resources may be conserved absent electrical generation, but it may create a significant incentive for needless capital investment. For example, an industrial company with a need for mechanical power which could be obtained through cogeneration might have an economic incentive through lower natural gas prices to cogenerate electricity instead of mechanical power. This electricity would, in turn, be used to power electric motors, which would be used to drive

the machinery. Thus, several intermediate steps would have been taken to achieve the same result.

The expense of installing the generators and motors would be needlessly incurred, since the cogeneration prime mover could directly supply the required mechanical power. Moreover, the intermediate conversion to electricity would result in energy losses since motors and generators are always less than perfectly efficient. By making mechanical cogeneration facilities eligible for the exemption from incremental pricing, the proposed rule would remove this inappropriate incentive to install unneeded equipment.

III. The Proposed Rule

The Commission wishes to emphasize that the proposed rule would not affect any of the provisions of Order Nos. 69 or 70 which pertain to electrical cogeneration.⁶

The proposed rule does, however, adopt certain terms and criteria used in Order No. 70 for qualifying electrical cogeneration facilities. In order to ensure that mechanical and electrical cogeneration facilities are afforded equivalent treatment under the incremental pricing provisions of the NGPA, this rule specifies that a mechanical cogenerator be exempted if it meets efficiency standards similar to those prescribed for electrical cogeneration facilities in Order No. 70. The proposed rule does not require theoretical conversion of mechanical energy to an electrical energy equivalent. A cogenerator developing only mechanical power most probably desires this form of energy for use in his facility. It is appropriate to relate this mechanical energy to an equivalent efficiency standard, rather than to attempt a determination of what quantity of electricity could reasonably be generated from the cogenerator's mechanical power.

The mechanical power produced by a cogeneration facility can assume several forms. Accordingly, the proposed rule provides that the useful mechanical energy output produced by a cogeneration facility be determined at the output of the prime mover. The power developed by the cogeneration heat engine, before conversion to other forms, may be considered to be the facility's mechanical power output. This means, for example, that the mechanical power output of a backpressure steam turbine driving an air compressor can be measured by the turbine shaft output. However, where there is no shaft, as in

⁶ Order No. 69, 45 FR 12214 (February 25, 1980), and Order No. 70, 45 FR 17959 (March 20, 1980).

¹ 18 CFR 282.202(e), 44 FR 37726 (October 5, 1979).

² Docket No. RM79-54, issued November 9, 1979, 44 FR 65744 (November 15, 1979).

³ 18 CFR 292.501-292.503, 44 FR 65744 (November 15, 1979).

⁴ Order No. 70, issued March 13, 1980 in Docket No. RM79-54, "Final Rule Establishing Requirements and Procedures for a Determination of Qualifying Status for Small Power Production and Cogeneration Facilities," 45 FR 17959 (March 20, 1980).

⁵ 18 CFR 292.205(c).

a free-piston compressor, the mechanical power output may be determined in terms of the work content of the pumped fluid. This rule should serve to simplify the calculation of a facility's output and efficiency. Since the proposed rule does not require measurement following any subsequent mechanical energy conversions, no incentives are provided to utilize any particular form of mechanical energy.

However, the rule is discretionary in this respect and therefore does not require measurement at the output of the prime mover, since measurement at subsequent energy conversion points may be easier and cannot result in a higher measurement of energy efficiency than measurement at the prime mover. Mechanical power may be measured at conversion points subsequent to the prime mover. The Commission requests specific comments as to whether the term "output of the prime mover" is appropriate and whether the application of this provision should be permissive in this respect. Comments are also requested on the feasibility of measuring mechanical power output.

In Order No. 70, the Commission noted that if and when final regulations under Phase II of incremental pricing take effect, and the Commission can better assess their implications, the Commission may wish to revise the exemptions from incremental pricing granted to cogeneration facilities qualifying under that rule.⁷ The Commission intends that the exemption for mechanical cogeneration facilities will be given similar review and treatment.

IV. Congressional Review

The regulations below are being proposed pursuant to section 206(d) of the NGPA. Thus, if the regulations are adopted by the Commission as a final rule, they will be submitted to the Congress for review prior to taking effect. After the regulations are submitted to each House of Congress, they may take effect following 30 days of continuous session of Congress (as set forth in subsection 507(b) of the NGPA) unless either House adopts a resolution of disapproval within that 30 day period.

V. Comment Procedures

A. Written Comments

The Commission invites interested persons to submit written comments on the matter proposed in this notice. An original and 14 conformed copies of such comments should be filed with the

Commission by June 30, 1980. Each of the issues presented in the written comments should appear in a separate paragraph. Comments submitted by mail should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. All comments should refer to Docket No. RM80-62.

Written comments will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The Commission will consider all timely comments before acting on the matters proposed in this notice.

B. Public Hearing

A public hearing concerning this proposal will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 on July 1, 1980 beginning at 10:00 a.m. EST, and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:00 p.m., on June 20, 1980.

Requests to participate in the hearing should include a reference to Docket No. RM80-62, as well as a concise summary of the proposed oral presentation and a telephone number where the person making the presentation may be reached. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:30 p.m. on June 25, 1980. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 10 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a

rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Division of Public Information, Office of Congressional and Public Affairs.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, E.O. 12009, 3 CFR Part 142 (1978), Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*)

In consideration of the foregoing, the Commission proposes to amend Part 282, Subchapter H, Chapter 1 of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission,

Kenneth F. Plumb,

Secretary.

1. Section 282.204 is amended in paragraph (d)(3)(i) by changing the designation of clauses (F), (G), (H), and (I) to (G), (H), (I) and (J) respectively and adding new clauses (F) and (K) to read as follows:

§ 282.204 Obtaining an exemption.

(d) Exemption on the basis of an affidavit. * * *

(3) Contents of exemption affidavit. (i)

(F) Is the customer's facility, in its entirety, a mechanical cogeneration facility?

(K) Is the customer's facility, in part but not in its entirety, a mechanical cogeneration facility?

2. The Table of Sections for Part 282 is amended to add a new § 282.211 entitled "Exemptions for mechanical cogeneration facilities under NGPA section 206(d)."

3. Part 282 is amended by adding a new § 282.211 to read as follows:

§ 282.211 Exemptions for mechanical cogeneration facilities under NGPA section 206(d).

(a) Definitions and general rules. For purposes of this section:

(1) "Mechanical cogeneration facility" means equipment used to produce mechanical energy and forms of useful thermal energy (such as heat or steam), used for industrial or commercial heating or cooling purposes, through the sequential use of energy;

(2) "Topping-cycle mechanical cogeneration facility" means a cogeneration facility in which the energy input to the facility is first used to produce useful mechanical power output, and the reject heat from such power production is then used to provide useful thermal energy;

⁷ Order No. 70, *supra* note 4, mimeo at 62.

(3) "Bottoming-cycle mechanical cogeneration facility" means a cogeneration facility in which the energy input to the system is first applied to a useful thermal energy process, and the reject heat emerging from the process is then used to produce useful mechanical power output;

(4) "Supplementary firing" means an energy input to the mechanical cogeneration facility used only in the thermal process of a topping-cycle mechanical cogeneration facility, or only in the mechanical power production process of a bottoming-cycle mechanical cogeneration facility;

(5) "Useful mechanical power output" of a mechanical cogeneration facility means the total mechanical energy made available for use, exclusive of any such energy used in the mechanical energy production process;

(6) "Useful thermal energy output" of a topping-cycle mechanical cogeneration facility means the thermal energy made available for use in any industrial or commercial process, or use in any heating or cooling application;

(7) "Total energy output" of a topping-cycle mechanical cogeneration facility is the sum of the useful mechanical power output and useful thermal energy output;

(8) "Total energy input" means the total energy of all forms supplied from external sources;

(9) "Natural gas" means either natural gas unmixed, or any mixture of natural gas and artificial gas;

(10) "Oil" means crude oil, residual fuel oil, natural gas liquids, or any refined petroleum products;

(11) Energy input in the case of energy in the form of natural gas or oil is to be measured by the lower heating value of the natural gas or oil; and

(12) Useful mechanical power output may be measured at the output of the prime mover or at a subsequent energy conversion point.

(b) *Exemption from incremental pricing. Topping-cycle facilities.* Natural gas used in any topping-cycle mechanical cogeneration facility is eligible for an exemption from incremental pricing under Title II of the Natural Gas Policy Act of 1978 (NGPA) and Part 282 of the Commission's rules if the facility meets the operating and efficiency standards under paragraphs (c)(1) and (c)(2) of this section.

(c) *Operating and efficiency standards for topping-cycle mechanical cogeneration facilities.* (1) *Operating standard.* For any topping-cycle mechanical cogeneration facility, the useful thermal energy output of the facility must, during any calendar year period, be no less than 5 percent of the total energy output.

(2) *Efficiency standard.* For any topping-cycle mechanical cogeneration facility for which any of the energy input is natural gas or oil, the useful mechanical energy output of the facility plus one-half the useful thermal energy output, during any calendar year period, must:

(i) subject to clause (ii), be no less than 42.5 percent of the total energy input of natural gas and oil to the facility; or

(ii) if the useful thermal energy output is less than 15 percent of the total energy output of the facility, be no less than 45 percent of the total energy input of natural gas and oil to the facility.

(d)(1) *Efficiency standards for bottoming-cycle facilities.* For any bottoming-cycle mechanical cogeneration facility for which any of the energy input as supplementary firing is natural gas or oil, the useful mechanical power output of the facility must, during any calendar year period, be no less than 45 percent of the energy input of natural gas and oil for supplementary firing.

(2) *Bottoming-cycle facilities.* Natural gas used in any bottoming-cycle mechanical cogeneration facility other than gas used for supplementary firing, is eligible for an exemption under Title II of the NGPA and Part 282 of the Commission's rules:

(i) if the facility meets the efficiency standard under paragraph (d) of this section, and

(ii) to the extent that reject heat emerging from the useful thermal energy process is made available for use for mechanical power production.

(3) *Supplementary firing.* Natural gas used for supplementary firing in any mechanical cogeneration facility is not eligible under this section for exemption from incremental pricing.

(e) *Waiver.* The Commission may waive any of the requirements of paragraphs (b), (c) and (d) upon a showing that the facility will produce significant energy savings.

[FR Doc. 80-17305 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to propose a change in regulations

dealing with Minority Group Statistics Systems. These systems are being redesignated as "Race, Sex, and National Origin Statistics Systems." Under the President's Reorganization Plan No. 1 of 1978, these changes are being made to reflect the continued operational responsibility for these agency systems by the Office of Personnel Management.

DATE: To be considered, comments must be received on or before August 5, 1980.

ADDRESS: Please address all comments to: Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 "E" Street N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Alfredo Mathew, Jr., Director, Office of Government Employment, Equal Employment Opportunity Commission, 2401 "E" Street, N.W., Washington, D.C. 20506, telephone No. (202) 634-6915.

SUPPLEMENTARY INFORMATION: In order to quickly implement the President's Reorganization Plan No. 1 of 1978, i.e., the transfer to the Commission of the responsibility for equal employment opportunity in the Federal sector, the former Civil Service Commission regulations (5 CFR 713) were adopted unchanged by the Commission. (See 43 FR 60901, December 29, 1978.) Included in the adopted regulations was Subpart C, Minority Group Statistics Systems. These regulations dealt with operational control over agency systems for the maintenance of minority data on employees. The collection of data on the sex of applicants or Federal employees was never precluded. The former Civil Service Commission agreed to this adoption of the entire Part 713 under the condition that at a later date the respective policy and program role of the EEOC and the Office of Personnel Management's continuing operational responsibility for such systems (i.e. requirements contained in Subpart C) would be codified in regulations.

Consequently, the Commission is proposing to amend Subpart C of its regulations at 29 CFR 1613, wherein the former Subpart C of 5 CFR 713 has been incorporated. This change will have the effect of identifying the Commission's overall authority and policy control in this area while reflecting the Office of Personnel Management's operational responsibility for agency system.

This action is deemed appropriate both because the Office continues to have a need for such agency-maintained data (e.g., in the Federal Equal Opportunity Recruitment Program (FEORP) under 5 U.S.C. 7201 and as necessary in determining any adverse impact in agency employee selection

procedures) and because the Office has an efficient and effective methodology for overall systems management already in place (i.e., the Central Personnel Data File) along with the necessary expertise to continue successful operation of the systems. The Equal Employment Opportunity Commission has determined that these proposed regulations are "non-significant" within the meaning of E.O. 12044. The complete text of the proposed regulations appears below.

Equal Employment Opportunity Commission.
Eleanor Holmes Norton,
Chair.

Accordingly, the list of sections describing Subpart C of 29 CFR 1613 and the entire Subpart C are deleted and inserted in lieu thereof is the following:

PART 1613—EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

* * * * *

Subpart C—Race, Sex, and National Origin Statistics Systems

Sec.
1613.301 Commission oversight.
* * * * *

Subpart C—Race, Sex, and National Origin Statistics Systems

§ 1613.301 Commission oversight.

(a) Pursuant to Reorganization Plan No. 1 of 1978, and Section 717 of the Civil Rights Act of 1964, as amended, policy and program oversight authority for equal employment opportunity in the Federal sector was vested in the Commission. Collection of statistical data relating to the race, sex, and national origin of applicants and Federal employees is needed to set appropriate affirmative action goals and timetables; to determine any adverse impact in agency employee selection procedures; and to monitor agency progress in eliminating underrepresentation of minorities and women. Therefore, agencies are required to maintain race, sex, and national origin data, as defined by the Commission and for use by the Commission as well as by agencies, on both applicants and Federal employees.

(b)(1) Under provisions of 5 U.S.C. 7201, the Office of Personnel Management (OPM) is required to issue regulations to implement a Federal minority recruitment program. In order to effectively manage this program and to assist the Commission in meeting the objectives described in § 1613.301(a) above, OPM has been given operational responsibility for the collection of race, sex, and national origin data that

agencies maintain on applicants and Federal employees. The Commission retains policy and program oversight and control of the systems. Nothing in this regulation shall preclude the EEOC from requiring agencies to maintain and report additional and more detailed statistics to satisfy its affirmative action instructions.

(2) In order to meet the needs of the Commission and OPM and to allow for proper agency use of these data, collection and maintenance of race, sex, and national origin data should operate under a coordinated set of regulations and instructions. The Commission recognizes that operational responsibility, including the issuance of regulations and other necessary instructions, for maintenance of race, sex, and national origin statistical systems, data collection, and reporting for CPDF, appropriately is a function of the Office of Personnel Management and, therefore, authorizes the Office to act in this regard, after consultation with EEOC.

* * * * *

(Reorganization Plan No. 1, 1978 (43 FR 19807, May 9, 1978) and Executive Order 12106 (44 FR 1053, January 3, 1979))

[FR Doc. 80-17200 Filed 6-5-80; 8:45 am]
BILLING CODE 6570-06-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs Office

29 CFR Part 2550

Rules and Regulations for Fiduciary Responsibility; Proposed Regulation Relating to Definition of Plan Assets

AGENCY: Department of Labor.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains a proposed revision of a portion of a previously proposed regulation relating to the definition of "assets" of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act). This proposed revision is being published in light of the public comments received on the original proposal.

DATES: Written comments concerning the proposed regulation, as modified herein, must be received on or before August 5, 1980.

ADDRESSES: Interested persons are invited to submit written data, views or arguments concerning the proposed regulation, as modified herein, to: Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW.,

Washington, D.C. 20216, marked to the attention of "Plan Asset Regulations", on or before the date indicated above. All such submissions will be open to public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523-9592.

SUPPLEMENTARY INFORMATION: On August 28, 1979, the Department of Labor (Department) published in the *Federal Register* a proposal to adopt regulations that would (1) define the term "plan assets" under the Act, and (2) provide a limited exemption from the requirement of section 403(a) of the Act that, with certain exceptions, plan assets must be held in trust.¹ The notice gave opportunity for interested persons to comment on the proposal. At the request of certain members of the public, the comment period was extended and, after the expiration of the extended period, subsequently reopened.² In light of requests for a public hearing on the proposed regulations, and the importance of, and widespread interest in, the issues raised by the proposals, the Department scheduled hearings on the proposals, and again reopened the comment period.³

Public hearings were held in Washington, D.C., on February 27 and 28, 1980, at which more than 30 commentators made oral presentations. At the conclusion of the hearings, the record in this proceeding was held open until March 28, 1980, at the request of certain witnesses, in order to permit the filing of additional submissions.⁴

In addition to the testimony presented at the hearing, the Department has received over 200 written submissions concerning these proposed regulations. The staff of the Department currently is reviewing the comments and testimony to determine what changes, if any, should be made to the proposal. The testimony and the comments have given the Department reason to believe that

¹ Proposed regulations 29 CFR § 2550.401b-1 and 29 CFR § 2550.403b-1 (44 FR 50363). That document also gave notice of withdrawal of previously proposed regulation 29 CFR 2552.1, which would have provided an exemption from the trust requirements of section 403(a) of the Act for certain unfunded employee welfare benefit plans. It was noted that the regulation, if adopted, would supersede ERISA IB 75-2 (29 CFR § 2509.75-2) to the extent that IB 75-2 would be inconsistent with the regulation.

² 44 FR 61618 (October 26, 1979); 44 FR 74858 (December 18, 1979).

³ 45 FR 7521 (February 1, 1980).

⁴ Transcript of Hearing, at 507.

one part of the proposal, however, may be having a present, adverse impact on operations of certain money managing entities commonly known as "venture capital companies" in attracting funds for management from employee benefit plans. This is due, according to the commentators, to apparent uncertainty created by the proposal. In view of this uncertainty and the apparent adverse impact the proposal is having on certain of these companies, the Department has decided to propose for comment, at this time, a revised version of a portion of one of the proposed regulations in order to provide interested persons an opportunity to comment on the changes now under consideration as soon as possible. The proposed modifications relate solely to subsection (e) of proposed regulation 29 CFR § 2520.401b-1, *Definition of "Plan Assets"*. Accordingly, public comments are invited at this time with respect only to issues related to the proposed modification. Except for that modification, the regulations proposed by the Department in its notice of August 28, 1979, remain under consideration in the form proposed and in light of the comments received.

Discussion

The Department proposed a regulation defining the term "plan assets" because it is important that persons exercising discretionary authority or control respecting the management or disposition of such assets (and who, therefore, would be fiduciaries with respect to the plan) be aware that they have certain responsibilities under the Act.⁵

Sections 403(a)(2) and 402(c)(3) of the Act provide, in part, that the exclusive authority and discretion to manage and control the assets of a plan shall rest with the trustees of the plan's assets, except to the extent (1) that the trustees are subject to the direction of a named fiduciary, and (2) that the authority to manage, acquire, or dispose of assets of the plan is delegated to one or more investment managers appointed pursuant to section 402(c)(3) of the Act. The latter case may occur, for example, where a named fiduciary of a plan selects a bank, insurance company or person registered under the Investment Advisers Act of 1940 to manage all or a portion of the plan's assets. One characteristic of a delegation of authority to manage the assets of an employee benefit plan is that the assets under management retain their identity

as plan assets.⁶ Therefore, when the investment manager is making investment decisions with respect to such assets under management, it is dealing with plan assets.

In the Department's view, the form of the arrangement by which plan assets are invested should not be dispositive of whether the arrangement is, in substance, an exchange of one plan asset for another (e.g., the acquisition of the stock of an operating company) or the delegation of investment management authority (i.e., the contracting for investment management services). Thus, where a person performs exclusively or principally investment management functions with respect to funds over which it has control by virtue of its authority to invest funds of an entity which it controls (e.g., a "pooled investment vehicle"), if a trustee of a plan purchases the equity securities of such pooled investment vehicle rather than contracting with the manager of the vehicle to perform such services on a contractual basis, the Department does not believe that a plan's "investment" in the "equity securities" of such a pooled investment vehicle is functionally different from a contractual delegation of investment management authority to the managers of the vehicle. Thus, the regulation, as originally proposed, would have provided that in the case of an equity security, the assets of a plan investing in the security would be deemed to include both the security and the assets of its issuer, unless, among other things, the issuer is primarily engaged in the business of providing goods or services other than the investment of capital. This exception was designed to distinguish "operating" companies from entities that provide investment management services, such as investment companies.⁷

A number of commentators, including representatives of venture capital

⁵ This should be compared to the situation where the named fiduciary does not delegate investment management responsibility but makes investment decisions himself, such as for example, to exchange plan cash for shares of stock of the XYZ Manufacturing Company.

⁷ In the case of an investment company that is registered under the Investment Company Act of 1940 (1940 Act), the Act provides specifically that the assets of a plan investing in securities issued by such company shall be deemed to include those securities but not, solely by reason of the investment, to include the assets of the company. See, section 401(b)(1) of the Act. See also, Conf. Rept. No. 93-1280 (93d Cong. 2d Sess.) at 296, where the conferees state, as the reason for this exclusion, that registered investment companies are regulated under the 1940 Act and are widely held, and that, therefore, the conferees did not consider it necessary to apply the fiduciary rules of the Act to such companies merely because plans may invest in them.

companies (VCC's), objected to this aspect of the proposal.⁸ Among the objections was the argument that the distinction drawn by the Department between operating companies and pooled investment vehicles is not applicable to VCC's because they not only invest in securities issued by small companies but also are often involved in influencing or controlling the management of those companies. In that respect, they assert, VCC's are more like holding companies which own operating companies than like pooled investment vehicles.

Where an enterprise is not designed to function as an investment intermediary, an investment in the enterprise should not be deemed to be the equivalent of a delegation of investment management authority. This would be the case, for example, with an investment in an "operating" company. An investment in a VCC, on the other hand, appears to possess characteristics of a delegation of investment management authority. However, in view of the unique nature of certain VCC's—that they act as an investment intermediary but also generally take an active role in the management of the companies in which they invest—the Department has reexamined their operation in light of comments and testimony received and is proposing that if certain conditions are met, an investment in such an entity by a plan would not result in, or be deemed to be, a delegation of investment management authority. Under such circumstances the assets of the VCC would not be considered plan assets. The conditions are based on specific suggestions by representatives of venture capital companies, testimony and written submissions concerning the operation of such companies, copies of contracts between investors and VCC's submitted in the proceeding and the Department's view of the purposes of the Act and the interests of plan participants and beneficiaries that should be protected. The proposed conditions are discussed briefly below.

Proposed Modification

The principal condition of the proposed revision is that the enterprise is or represents that it will be primarily engaged in the business of investing

⁸ VCC's were described in public comments as, generally, limited partnerships or corporations which reinvest funds invested in them in selected securities issued by small businesses (portfolio companies). As part of the investment arrangements with portfolio companies, the managers of VCC's may participate in or obtain the right to participate in the management of the portfolio companies. Investments in portfolio companies, and in VCC's, generally are illiquid and long-term.

⁵ See, preamble to proposed regulations. 44 FR 50363 (August 28, 1979).

capital in securities issued by other companies as to which it substantially influences or controls, or has the right to substantially influence or control, management decisions. This condition sets forth the principal difference between VCC's and other pooled investment vehicles.

Under the proposal, the equity security purchased by the plan must have been issued to the plan in a transaction not involving a public offering under section 4(2) of the Securities Act of 1933 and Rule 146 thereunder, or pursuant to a public offering registered under the Securities Act of 1933. Commentators represented that such securities are sold to plans in non-public offerings pursuant to section 4(2) and Rule 146, and the Department believes that these provisions offer protections to investing plans. In addition, the Department believes that in those cases where a public offering may be made under the Securities Act of 1933, adequate protections are provided by the registration requirements of that Act.

Another condition would require that the enterprise issuing the security have at its inception commitments of at least \$5 million of investment capital from at least 10 investors which are not affiliated with the plan, each other, or with the persons or entities who manage the issuer. This condition is designed to ensure that a number of independent investors are willing to invest in the enterprise and that a sufficiently large minimum capital base is present.

The proposed regulation also would require that the issuer of the security agree to certain matters relating to the investment in or the management of the VCC and that the holders of its equity securities have the right to enforce compliance with the agreement.⁹ This condition is designed to assure that plans making venture capital investments which will be deemed an exchange of plan assets rather than a delegation of investment management responsibility are afforded certain protections in connection with such investments. Under this condition, the issuer must agree to provide investors certified financial statements annually and to provide other information about its operations and investments on request. The issuer also must agree that the managers of the issuer or their affiliates will not engage in certain types of transactions—these persons may not

acquire or hold any securities of any company in which the issuer has invested,¹⁰ borrow money from or otherwise obtain credit from the issuer, or sell or lease property to or purchase or lease property from the issuer. Further, the persons responsible for investment decisions of the issuer must agree to cause the issuer to conduct its activities in accordance with a standard of conduct appropriate for VCC managers. The issuer must agree that no officer, director or general partner or manager of the issuer will be a person convicted of any of the crimes enumerated in section 411(a) of the Act. Finally, the issuer must agree to allow any security holder to sell the security to a third party, subject to certain limitations, and, upon request, to repurchase the security at a fair and reasonable price or use its best efforts to locate a suitable purchaser.

In addition to the above-described modifications to proposed § 2550.401b-1(e), two clarifying modifications are proposed to be made to the exception for operating companies. One would treat an entity as an operating company if it is primarily engaged in the types of business activities described in the provision through majority owned subsidiaries in addition to engaging in the activities directly. This would clarify that holding companies of operating companies would be regarded as operating companies under subsection (e). The other modification of the proposed operating company exclusion would make clear that companies primarily engaged directly in the development or management of real estate as opposed to merely financing, holding for appreciation, *etc.*, of real estate are to be regarded as operating companies because such business activities appear to the Department to differ substantially from those associated with investment management.

As a result of public comments on the regulations proposed on August 28, 1979, the Department will treat these proposals, including the modifications set forth herein, as significant regulations under Department of Labor

guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

EFFECTIVE DATE: It is proposed that the provisions of the subsection of the regulation set forth herein will, if adopted, apply to property held under arrangements made by a plan after 30 days from the date of its publication in the Federal Register. The subsection would not purport to address the status of property held under arrangements made by a plan prior to that date.

STATUTORY AUTHORITY: The regulation is proposed, as modified herein, pursuant to the authority contained in sections 401 and 505 of the Act (29 U.S.C. 1101, and 1135).

In consideration of the matters discussed above, the Department hereby modifies paragraph (e) of proposed regulation 29 CFR 2550.401b-1, published on August 28, 1979, to read as follows:

§ 2550.401b-1 Definition of Plan Assets.

(e) Notwithstanding the provisions of subsection (a), in the case of a plan which invests in any equity security which is not issued by an investment company registered under the Investment Company Act of 1940, the assets of such plan shall be deemed to include such security and the assets of the issuer of such security, except if, at the time of the investment:

(1)(i) The issuer of such security is or represents that it will be primarily engaged, directly or through a majority-owned subsidiary or subsidiaries, in the provision, production or sale of a product or service other than the investment of capital, or directly in the management or development of real estate, or

(ii)(A) The issuer of such security is or represents that it will be primarily engaged in the business of investing capital in enterprises as to which it has or obtains the right to substantially participate in or influence the conduct of the management of such enterprise, and

(B) In the case of an issuer described in subparagraph (e)(1)(ii)(A) of this section, the following conditions are satisfied:

(1) The security is issued to the plan either in compliance with the requirements of section 4(2) of the Securities Act of 1933 and Rule 146 of the Securities and Exchange Commission adopted thereunder, or as part of an offering of such securities to the public pursuant to an effective registration statement under the Securities Act of 1933;

(2) At its inception the issuer receives or has committed to it at least \$5 million

⁹ The Department would regard any indemnification or exculpatory provisions which would tend to render enforcement of such rights meaningless or of little value as the equivalent of not providing such rights, with the result that the condition would not be satisfied.

¹⁰ The Department understands that there may be situations where a manager of more than one VCC may decide to invest, at the same time, the assets of each VCC in the same portfolio company. Despite the conflicts of interest which may arise in such situations, it may be appropriate to permit such "parallel investments" under certain circumstances. In that regard, the Department specifically solicits comments with respect to the situations in which such parallel investing may arise, the relationship between the VCC's which would make such parallel investments and the differences, if any, between the structure of, and the rights of holders of the securities of the VCC's which would make these investments.

of investment capital, and such investments or commitments are made by not fewer than 10 investors none of whom are, when considered without regard to the issuer itself, affiliated persons (as defined in section 2(a)(3)(A) through (D) of the Investment Company Act of 1940) of the plan, of the issuer, of the manager of the issuer, of any officer, director or general partner of the issuer or the manager of the issuer, or of each other; and

(3) The issuer of the security agrees, pursuant to a written document and as a portion of the consideration given in the transaction by which the security is conveyed:

(i) To provide to security holders annual certified financial statements of the issuer a reasonable time after the end of the fiscal year of the issuer, and, on request, reasonable information concerning the operations and investments of the issuer;

(ii) That no officer, director, general partner or manager of the issuer, or any affiliated person (as defined in section 2(a)(3)(A) through (D) of the Investment Company Act of 1940) of any such person will directly or indirectly (except as an investor in the issuer): Acquire or hold any securities of any company whose securities the issuer holds; Borrow money or otherwise obtain credit from the issuer; or Sell or lease property to, or purchase or lease property from, the issuer;

(iii) That the persons responsible for investment decisions of the issuer will cause the issuer to conduct its activities with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent manager of such an issuer would cause such issuer to use in the conduct of an enterprise of like character and with like aims;

(iv) That no officer, director, general partner or manager of the issuer shall be a person described in section 411(a) of the Act;

(v) That any security holder may sell the security to a third party, so long as such sale does not increase the number of beneficial owners of interests in the issuer (as that term is defined in section 3(c)(1) of the Investment Company Act of 1940), provided that such right of sale may be subject to the approval of the manager of the issuer, which approval shall not be unreasonably withheld, and

(vi) That the issuer will repurchase the security at a fair and reasonable price, or make its best efforts to locate a suitable purchaser of the security for a fair and reasonable price if requested to do so by the holder of the security; or

(2) Such security is:

- (i) Freely transferable;
- (ii) Widely held; and

(iii) Either (A) registered under section 12(b) or 12(g) Of the Securities Exchange Act of 1934; or (B) Sold to the plan as part of an offering of such securities to the public pursuant to an effective registration statement under the Securities Act of 1933, and the security is registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934 within 120 days (or such later time as may be allowed by the Securities and Exchange Commission) after the end of the fiscal year of the issuer during which the offering of such securities to the public occurred.

Signed at Washington, D.C., this 3d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17321 Filed 6-4-80; 11:44 am]

BILLING CODE 4510-29-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[FRL 1508-4; OPP 250026]

Regulation for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act; Transmittal of Proposed Regulation to the Secretary of Agriculture

AGENCY: Environmental Protection Agency.

ACTION: Notice of transmittal of proposed regulation to the Secretary of Agriculture.

SUMMARY: The Administrator of the Environmental Protection Agency hereby gives notice that a copy of a proposed regulation under the Federal Insecticide, Fungicide and Rodenticide Act, as amended ("FIFRA") has been provided to the Secretary of Agriculture prior to publication of the proposed regulation for public comment, as required by FIFRA Section 25(a). The proposed regulation would amend Part 162 of Title 40 of the Code of Federal Regulations by establishing a new Subpart which would comprehensively revise the procedures for the issuance of notices of intent to deny or cancel registration or to change classification of pesticides uses. The proposed regulation also would revise the procedures governing the Rebuttable Presumption against Registration ("RPAR") process, which are currently set out at 40 CFR 162.11.

FOR FURTHER INFORMATION CONTACT: David E. Menotti, Associate General Counsel for Pesticides, Office of

General Counsel (A-132), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-2680

or

William F. Pedersen, Jr., Deputy General Counsel, Office of General Counsel (A-130), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-426-0508.

SUPPLEMENTAL INFORMATION: Section 25(a)(1) of FIFRA requires the Administrator of the Environmental Protection Agency to provide the Secretary of Agriculture with a copy of any proposed FIFRA regulation prior to publishing it for public comment in the *Federal Register*. If the Secretary comments in writing within time limits set out in the statute, the Administrator is required to publish the Secretary's comments, along with his response to them, in the *Federal Register*, together with the proposed regulation. Section 25(a)(3) of FIFRA requires the Administrator to publish a notice in the *Federal Register* whenever a proposed regulation is transmitted to the Secretary under Section 25(a)(1) of FIFRA.

Dated: May 30, 1980.

Steven D. Jellinek,

Assistant Administrator, Office of Pesticides and Toxic Substances.

[FR Doc. 80-17201 Filed 6-6-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55, 56, and 57

Review of Standards; Advance Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: U.S. Department of Labor, Mine Safety and Health Administration.

ACTION: Notice to extend period for public comment.

SUMMARY: On March 25, 1980 (45 FR 19267), MSHA issued an advance notice of proposed rulemaking which invited the public to participate in the initial stages of its review of safety and health standards applicable to metal and nonmetal mining and milling. These regulations appear in Parts 55, 56, and 57 of Title 30, Code of Federal Regulations. Interested persons were given until May 27, 1980, to submit comments and data. The comment period is extended to August 5, 1980.

DATE: Comments must be received on or before August 5, 1980.

ADDRESS: Interested persons are invited to submit written comments and suggestions to the Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980 (45 FR 19267), MSHA announced its intention to solicit public comment in conjunction with its comprehensive review of safety and health standards applicable to the metal and nonmetal mining and milling industry. Interested persons were urged to describe any problems relating to organization, indexing, style and format, as well as particular areas of substantive concern, with respect to any regulation appearing in Parts 55, 56, and 57 of Title 30, Code of Federal Regulations. The comment period was scheduled to close on May 27, 1980. Although the agency has received many comments in response to the notice, several organizations and other interested parties have requested an extension of time so that their input could be included at an early stage of the standards review process. In order to allow the fullest possible public participation, MSHA has decided to extend the comment period until August 5, 1980. Persons who have not yet submitted their comments are urged to participate during this phase of the rulemaking process. MSHA appreciates the efforts of many persons and organizations who have submitted written comments by May 27, 1980. They may submit additional comments within the extended time. In reviewing its regulations, the agency will conduct an evaluation based on many factors such as: the need for clarity; technical accuracy; redundancy; necessity; and relevancy.

Because many MSHA standards incorporate a variety of requirements from sources outside the agency, MSHA also specifically requests public comment with respect to the appropriateness of the incorporation of such documents.

Dated: May 29, 1980.

Frank A. White,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 80-17289 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Hearing and Public Comment Period on the Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed Rule: Public Comment Period and Public Hearing on Arkansas Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substance of the proposed Arkansas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice sets forth the times and locations that the Arkansas program is available for public inspection; additions or modifications to the submission made since February 19, 1980; the date when and the location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Arkansas program submission will be held from 4:00 p.m. to 7:00 p.m. on July 8, 1980, at the address listed below.

Written comments, data or other relevant information may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Comments from the public must be received on or before 4:30 p.m., July 16, 1980, to be considered in the Secretary of the Interior's decision on the proposed Arkansas regulatory program.

ADDRESSES: The public hearing will be held at the Fort Smith Sheraton, 5711 Rogers Avenue, Fort Smith, Arkansas 72902. Written comments should be sent to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, 818 Grand Avenue—Scarritt Building, Kansas City, Missouri 64106; or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region IV Office and the Arkansas Department of Pollution Control and Ecology office listed below, Monday through Friday, 8 a.m., to 4 p.m., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region IV Office and the Arkansas Department of Pollution Control and Ecology office listed above, and the OSM Headquarters Office, listed below: U.S. Department of the Interior, Office of Surface Mining, Interior South Building, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT:

Richard Rieke, Assistant Regional Director, Office of Surface Mining, Reclamation and Enforcement, 818 Grand Avenue—Scarritt Bldg., Kansas City, Missouri 64106, Telephone: (816) 374-3920.

SUPPLEMENTARY INFORMATION: On February 19, 1980, the State of Arkansas submitted to OSM a proposed regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326-15328, March 13, 1979), the Regional Director published notice of receipt of the program submission in the February 27, 1980, *Federal Register* (45 FR 12918-12919) and in newspapers of general circulation in Arkansas. In accordance with that announcement public comments were solicited and a public meeting was held in Little Rock, Arkansas on March 31, 1980, on the issue of the program's completeness.

On April 9, 1980, the Regional Director published a notice announcing that he had determined the program to be complete, *Federal Register* (45 FR 24210-24211). This determination of completeness was not a determination of whether the submitted materials complied with the substantive provisions of SMCRA and the permanent regulatory program.

On May 30, 1980, the Arkansas Department of Pollution Control and Ecology submitted to OSM numerous revisions to the Arkansas permanent program submission. Revisions were made to the surface coal mining regulations, the section-by-section comparison of the regulations, and the program narrative.

A number of the revisions were minor in nature such as corrections of typographical errors, incorrect references to section numbers in the regulations, dropped lines, and other items of clarification. These minor modifications will not be discussed or summarized in this notice. However, the significant modification proposals to the

regulations and program narrative will be summarized below as required by 30 CFR 732.12(a)(1). Public comments are invited on these revisions.

Regulations

1. Arkansas amended § 70521(b) to provide that the Director file his or her appeal in conflict of interest proceedings, in writing, with the OSM Director.

2. Arkansas added language at § 764.17(a) prohibiting cross-examination of witnesses at hearings on petitions to designate lands unsuitable and requiring that a transcript be made of all such hearings.

3. Arkansas amended § 780.15 making mandatory the inclusion of a fugitive dust control plan in a mine permit application.

4. Arkansas revised §§ 784.13 and 784.23 to include references to require specific information for underground mine operation plans.

5. Arkansas added language to § 784.14 to provide that reclamation plans for underground mining include a description of measures to insure the protection of water quality.

6. Arkansas deleted a provision found at § 785.17(e) that allowed exceptions based on the size of prime farmland acreage.

7. Arkansas revised the definition of "willful violation" in § 786.5(b) to include violations of federal laws.

8. Arkansas amended § 786.11(c) to require written notification of the filing of a permit application be sent to the United States Environmental Protection Agency and other federal and local governmental agencies as identified by the permit applicant.

9. Arkansas deleted language in § 786.11(d) regarding the approving of specific portions of a permit application within sixty days.

10. Arkansas added the words "Secretary or the" to § 786.27(b) requiring a permit applicant, as a condition of his permit, to allow federal inspectors on his premises.

11. Arkansas amended § 788.12(a)(1) to specify parameters for determining what changes constitute significant departures in the revising of a mining permit.

12. Arkansas modified § 807.11 so that objectors to a bond release are not required to seek an adjudicatory hearing until after a decision by the Director.

13. Arkansas amended § 842.14 to require a response to inspection complaints within fifteen days of receipt.

14. Arkansas amended § 845.12(a) to provide specific authority to the Director to suspend underground coal mining,

without civil penalty, upon a finding of imminent danger to the inhabitants of urbanized areas.

15. Arkansas submitted a new part, "PART 1000 EFFECTIVE DATE," which addresses (a) the effective date of the regulations, (b) the status of Part 850 (Blaster Certification), (c) the status of the Abandoned Mine Reclamation Program, and (d) the identification of regulations that have been suspended or remanded as a result of litigation involving OSM's permanent program regulations, together with a statement of the status of such regulations in the Arkansas program. (In a decision issued by Judge Flannery on May 16, 1980, *In re: Permanent Surface Mining Regulation Litigation* (U.S.D.C., D.C.), the Secretary was ordered to affirmatively disapprove those segments of a state program that incorporate suspended or remanded regulations. Public comment is invited on Arkansas' method of dealing with Judge Flannery's decision.)

16. Arkansas added provisions at Part 900 establishing administrative hearing procedures including filing of pleadings, discovery, intervention, award of costs and expenses, including attorney's fees, and the appointment of presiding officers.

Program Narrative

1. Section 731.14(b). Arkansas added specific provisions of the Arkansas Rules of Civil Procedure (ARCP).

2. Section 731.14(c). Arkansas revised the section-by-section comparison to include *Ark. Stat. Ann.* Sections 41-2801 and 41-2807 that provide for the protection of state employees. Also submitted for inclusion in the section-by-section comparison was information to (a) show that Section 23 of the Arkansas Act is as stringent as Section 516(c) of SMCRA as it pertains to the issuance of cessation orders under conditions of imminent danger to the public, and (b) explain how §§ 761.11(c) and 761.12(f) are consistent with Section 522(e)(3) of SMCRA and 30 CFR Part 761 regarding approval to mine on certain federal, public and private lands.

3. Section 731.14(g)(4). Arkansas provides that the state will notify the Regional Director whenever a citizen initiates civil action under Section 29 of the Arkansas Act.

4. Section 731.14(i). Arkansas submitted additional position descriptions covering fish and wildlife ecology, hydrology, and civil engineering.

5. Section 731.14(j). Arkansas submitted additional information to further document the adequacy of staff to administer the program.

6. Section 731.14(l). Arkansas submitted a revised budget and indicated that permit fees will be used in funding the permanent program.

It should be noted that neither the proposed regulations provided with the original program submission of February 19, 1980, nor the proposed regulations submitted on May 30, 1980, as modifications to the program submission, were fully enacted by June 2, 1980, the 104th day after program submission. 30 CFR 732.11(d) as amended May 20, 1980 (45 FR 33926), requires that program submissions contain all required and fully enacted regulations by the 104th day after program submission. OSM will, however, review the proposed regulations and provide comments to the state on their adequacy. Public comments are invited on these proposed regulations.

Subsequent to the public hearing announced today and review of all comments, the Regional Director will transmit to the Director of OSM his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326-15327). For further details refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326-15327) and corresponding sections of the preamble (44 FR 14959-14961).

At the public hearing, all persons wishing to comment on the proposed program will have the opportunity to do so. Persons who wish to make arrangements to comment at a specific time at the hearing may contact Richard Rieke at the OSM Region IV Office or by phone at (816) 374-3920. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter.

The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

Public participation in the review of state programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444-54445) OSM published guidelines in the *Federal Register* governing contacts between the Department of the Interior and both state officials and members of the public. It is hoped that issuance of these guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Arkansas Program:

1. The Arkansas Surface Coal Mining and Reclamation Act (ASCMRA) which includes the designation of the Arkansas Department of Pollution Control and Ecology as the official agency for administering SMCRA.

2. Surface coal mining regulations.

3. Other state laws directly affecting the regulations of surface coal mining operations, i.e., that portion of the Arkansas Water and Air Pollution Control Act, as amended, relating to water quality, the Arkansas Regulation Establishing Water Quality Standards for Surface Waters, the State Mine Inspector Standards, the Quarrying and Stone Crushing Code, the proposed plan for Nonpoint Source Assessment and Control Needs for Mining Activities in Arkansas, provisions of the Arkansas Rules of Civil Procedure, and others.

4. A legal opinion of the Chief Legal Officer of the Surface Mining and Reclamation Division of the Arkansas Department of Pollution Control and Ecology stating that the Department has the necessary authority to implement, administer and enforce a permanent regulatory program in accordance with SMCRA and all regulations promulgated thereunder.

5. A section-by-section comparison of the state's laws and regulations with SMCRA and 30 CFR Chapter VII.

6. A description of the existing and proposed structural organization of the Surface Mining and Reclamation Division of the Arkansas Department of Pollution Control and Ecology.

7. A copy of an unexecuted supporting agreement between the Arkansas Department of Pollution Control and Ecology and the Arkansas Department of Labor relating to the training of blasters.

8. A description of the proposed system for:

(a) Receiving, reviewing, disapproving or approving and issuing permits for exploration and mining operations;

(b) Assessing fees for permit applications, including a fee schedule;

(c) Implementing, administering and enforcing a system of performance bonds and public liability insurance;

(d) Inspecting and monitoring coal exploration and mining and reclamation operations, and providing opportunity for public participation in the inspection process;

(e) Enforcing the administrative, civil and criminal provisions of the state Act and regulations, including citizen suit provisions;

(f) Administering and enforcing the permanent program performance standards of the state Act and regulations;

(g) Assessing and collecting civil penalties;

(h) Issuing public notices and holding public hearings;

(i) Coordinating issuance of permits with other state, federal and local agencies;

(j) Consulting with other appropriate state and federal agencies in the implementation of the program;

(k) Designating lands unsuitable for surface coal mining operations, including a description of a planning process for identifying lands unsuitable, a description of the process to allow the public to petition the Arkansas Department of Pollution Control and Ecology to have lands designated as unsuitable for mining;

(l) Monitoring, reviewing and enforcing restrictions against financial interests of state employees in coal mining operations;

(m) Training, examining and certifying blasters;

(n) Providing for public participation in the promulgation of regulations, in the development of the state program under SMCRA, and in the permitting process;

(o) Providing administrative and judicial review of actions taken by regulatory authority, including permit decisions and enforcement actions;

(p) Providing a Small Operator Assistance Program.

9. A listing of statistical information pertaining to the existing program as well as information pertinent to the proposed regulatory program, including:

(a) Coal production figures for each of the last three years;

(b) Acreage approved or permitted for exploration or mining for each of the last three years;

(c) A map showing the geologic distribution of coal in Arkansas;

(d) The number of applications for Exploration and Development

Operations permits received by the Arkansas Department of Pollution Control and Ecology for each of the last three years;

(e) Projections of annual production and geographic distribution of both exploration and mining operations for the next five years.

10. A summary of both the existing and proposed staff of the Surface Mining and Reclamation Division of the Department of Pollution Control and Ecology showing job functions, titles, and required job experience and training.

11. A description of how the proposed staffing will be adequate to carry out the functions for the projected workload.

12. A description of projected use of professional and technical personnel available from other state and federal agencies.

13. A description of the projected annual budget for each of the next two fiscal years.

14. A description of the existing and proposed physical resources to be used in implementing the permanent program.

15. A brief description of other programs administered by the Department of Pollution Control and Ecology.

Single copies of the Arkansas Surface Coal Mining and Reclamation Act and proposed regulations are available to the public at no charge. Persons interested in obtaining copies should write the Regional Director of OSM at the address listed above.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Arkansas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval of a state program does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: June 3, 1980.

Raymond L. Lowrie,
Regional Director.

[FR Doc. 80-17446 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-05-M

Notices

Federal Register

Vol. 45, No. 111

Friday, June 6, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Equine Piroplasmosis Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of report of Equine Piroplasmosis Panel.

SUMMARY: The purpose of this document is to provide the report of the panel that held a public meeting to solicit public comment especially from experts that have had personal experience with Equine Piroplasmosis (EP), a communicable disease of equidae. This action is being taken to provide opportunity for comment on the report of the panel based upon the testimony presented to the panel.

DATE: Comments on or before August 5, 1980.

ADDRESS: Comments to Deputy Administrator, USDA, APHIS, VS, Federal Building, Room 734, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Dr. W. Q. Nelson, Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: On Tuesday, February 26, 1980, there was published in the Federal Register (45 FR 12462) a notice of a panel to hold a public meeting and solicit public comment, especially from experts who have had personal experience with EP, regarding the nature of the disease and the potential impacts of removing the negative test requirement for EP from the regulations as a condition of entry for horses imported into the United States. The attached report is being made available for public comment prior to any final decision regarding the proposed deletion of the negative EP test requirement.

Report of Equine Piroplasmosis Panel

A total of 28 persons provided comments to the panel. Nineteen participants recommended keeping the EP test as a condition for entry of equidae into the United States, 5 recommended deleting the test and 4 presented their experience with the disease without commenting on the test requirement.

The weight of evidence presented to the panel during the public meeting held March 18 and 19, 1980, indicated a need to continue the present import testing procedure.

In making this decision the panel considered (1) the incomplete information on possible tick vectors in the United States; (2) that with a susceptible equine population the disease could become endemic in the United States horse population; and (3) the treatment for the *Babesia equi* strain of the disease is not adequate.

An alternative proposed for the panels consideration was to permit horses with a positive reaction to the complement fixation (CF) test for EP to be allowed entry into the United States subject to treatment. The panel could not recommend this procedure since the Department does not have post entry quarantine authority for such importations nor personnel available to provide adequate supervision. Further, using the limited space at USDA quarantine facilities to hold reactor horses for the extended time required for treatment and post treatment testing to assure that the animals are "cleansed" would result in unacceptable crowding and would prevent use of the facility for other importations.

Of the 19 persons who recommended retaining the test as a requirement for entry, 4 veterinary entomologists cited the need for further study to determine whether additional tick vectors of the disease are present in the United States. The fifteen others, 8 veterinarians, 6 representatives of various horse associations and one industry representative, presented papers which indicated their concern with the incomplete information on the existence of additional possible tick vectors in the United States; the fact that, with a susceptible equine population, the existence of the disease could result in the disease becoming established in the United States horse population; that the treatment for the *Babesia equi* strain of

the disease was not adequate; that other countries which require the test for importation might regulate against horses exported from the United States; that removal of the test requirement was not desired by industry; and that control of this infectious disease was needed to protect the horse industry which deserved to be protected.

Two veterinarians, two industry representatives and one horse breeder recommended deletion of the test as requirement for importation. Pertinent points stressed by these individuals were that an effective treatment exists for EP through the drug Imidocarb®; that the CF test which is the test for EP lacks international standardization; that the Departments' international (import) regulations are not consistent with interstate policy; that the disease has never been endemic on the United States mainland except in Florida; that the EP test requirement serves as a nontariff barrier; and that horses with a positive reaction to the CF test can be clinically normal and can perform work (race, and otherwise compete).

In summary, the major points expressed to the Panel by the witnesses concerned control and identification of vector ticks, efficacy of treatment, reliability of the test, and the effect of the test requirement on the international movement of horses.

Expert testimony considered by the panel confirmed that Imidocarb® is highly effective for use in "cleansing" horses and other equidae of *Babesia caballi* infections. For horses infected with *Babesia equi*, the effective rate of "cleansing" by one treatment was represented to be 58 to 60 percent, and about 80 percent for two treatments. However, following repeated treatments to "cleanse" EP reactors for *B. equi*, toxic side effects, principally liver dysfunction, were reported to develop.

Further, the tick *Rhipicephalus sanguineus* (*R. Sanguineus*) has been reported to be capable of transmitting *B. equi* in other countries. In the United States, while *R. sanguineus* does not commonly feed on horses, further information is needed to determine the role this possible vector may have in the spread of the disease.

The policy of the Department is to assist in developing international standardization of the CF test for EP. The method of preparing EP antigen has been made available to laboratories in

other countries and the Department has trained laboratory technicians from several countries including France, Great Britain, Chile, and Argentina in producing the required antigen and conducting the EP test. The Department will continue to offer this training to countries that wish to develop this expertise. However, the Department has no control over a foreign country's policy regarding use of the test.

Concerning the testimony that a difference exists in importation and interstate requirements for EP, the Panel considered one important feature that makes the international policy for entry into the United States different from the policy used in interstate movement. Under interstate policy, horses moved from Puerto Rico to the mainland of the United States are maintained in a tick-free facility while the test for EP is being conducted, and while in the facility are monitored by USDA personnel with the concurrence of the Commonwealth of Puerto Rico animal health officials. Also, the babesiacidal treatment for horses to be moved that are found to be infected with EP is under the direct supervision of employees of USDA. B. equi infected animals are not eligible to move or be treated. In international movements of equidae, control over the inspection, treatment and supervision of animals to be imported into the United States cannot be carried out at origin by Veterinary Services employees due to a lack of personnel and funding. Approximately 6,000 horses are imported into the United States each year. Furthermore, under present regulations no permit or other advance notice of such an importation is required except for horses from countries affected with contagious equine metritis (CEM). Consequently, we lack control over treatment for EP in foreign countries.

Further, consideration was given to the fact that EP became endemic in south Florida in 1961 to 1963. This outbreak was traced to the importation of Cuban walking horses that were later determined to be carriers of the blood parasite Babesia caballi. Subsequently, cases of EP have been found in 21 other States and in each instance prompt action to limit the spread and cleanse the EP "carrier" animals has been taken. In recent years, international traffic in horses and other equidae has increased throughout the world which, coupled with a great increase in interstate transportation and assembly of the horse population within the United States, increases the opportunities for EP to spread.

The Panel recognizes that the test requirement for import can cause inconvenience to importers of horses that are infected. However, the test requirement can't truly be classified as a significant nontariff trade barrier, since many horses have been imported into the United States during the last 10 years after being tested negative as a requirement for entry. Additionally, while animal health requirements, including the negative results to the EP test required for horses, may be considered a trade barrier, such requirements are justified to insure that only healthy animals will be imported into the United States.

While certain EP positive horses can appear clinically normal and can perform most normal functions (racing, breeding, etc.), when horse production is closely measured, EP infection is found to be detrimental to the thriftiness of foals. Also, based upon the panel's own expertise, when heavy work or other stress (such as pregnancy) is placed on EP infected animals, certain horses will show clinical illness.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland, during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

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

Done at Washington, D.C. this 29th day of May 1980.

Norvan L. Meyer,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 80-17174 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Black Hills National Forest Grazing Advisory Board; Meeting

The Black Hills National Forest Grazing Advisory Board will meet July 10, 1980 at 10:00 a.m. at the Nemo Ranger District Office, 460 Main Street, Deadwood, South Dakota. The Board is being established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) election of officers; (2) a discussion of the function of the Board; (3) establishment of by-laws; (4) recommendations concerning the development of allotment management

plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend and participate should notify Lloyd Todd, Black Hills National Forest (605-673-2251) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

James R. Mathers,

Forest Supervisor.

June 1, 1980

[FR Doc. 80-17248 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-11-M

Office of Environmental Quality

Environmental Policy; Categorical Exclusions

ACTION: Proposed Determination of Categorical Exclusions.

SUMMARY: Notice is hereby given that the Office of Environmental Quality (OEQ), pursuant to consultation with the Council on Environmental Quality (CEQ) and the agencies set forth below, is considering a proposed determination, that the current programs and activities of those USDA agencies come within the categorical exclusions contained in Department of Agriculture's policies and procedures for compliance with the National Environmental Policy Act (NEPA) (7 CFR § 3100.22; 44 FR 44802-44803). As a result of this proposed determination, the designated agencies would not prepare specific agency procedures for compliance with NEPA and the regulations of CEQ and the Department of Agriculture. However, those agencies will continue to review their programs and activities to evaluate any new programs or activities which may necessitate the development of specific agency procedures.

The proposed designated agencies are:

Agricultural Marketing Service
Economics, Statistics, and Cooperatives Service
Federal Crop Insurance Corporation
Federal Grain Inspection Service
Food and Nutrition Service
Foreign Agricultural Service

The OEQ solicits comments from the public regarding the proposed determination.

DATE: August 5, 1980.

ADDRESS: Comments to: Barry R. Flamm, Director, OEQ, USDA, Washington, D.C. 20250; (202) 447-3965.

FOR FURTHER INFORMATION CONTACT: Dr. Rado J. Kinzhuber, Chairman, USDA

Working Group, USDA, Washington, D.C. 20250; (202) 447-7711.

Dated: June 2, 1980.

Barry R. Flamm,
Director, Office of Environmental Quality.

[FR Doc. 80-17170 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-01-M

Rural Electrification Administration

Central Iowa Power Cooperative, Cedar Rapids, Iowa; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$10,500,000 Central Iowa Power Cooperative of Cedar Rapids, Iowa, for financing the borrower's 20 percent share of modifications and improvements at the existing Duane Arnold 550 MW nuclear power plant. No additional generating capacity is being provided.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Edward H. Williams, General Manager, Central Iowa Power Cooperative, P.O. Box 2517, Cedar Rapids, Iowa 52406.

In order to be considered, proposals must be submitted on or before July 7, 1980 to Mr. Williams. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Central Iowa Power Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 29th day of May 1980.

Robert W. Feragen,
*Administrator, Rural Electrification
Administration.*

[FR Doc. 80-17175 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Bear-Tilda Bogue Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT:

James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

NOTICE: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Bear-Tilda Bogue Watershed project, Madison County, Mississippi, effective on May 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Dated: May 27, 1980.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17131 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-16-M

Panther Creek Watershed, Mississippi

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Deauthorization of Federal Funding.

FOR FURTHER INFORMATION CONTACT:

James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

Note.—Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Panther Creek Watershed project, Madison County, Mississippi, effective on May 19, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Dated: May 27, 1980.

Joseph W. Haas,
Deputy Chief for Natural Resource Projects.

[FR Doc. 80-17132 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 80-6-10; Docket 37950]

Air New Mexico, Inc.; Petition for Advance Compensation for Losses; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of June, 1980.

By Order 80-4-163, April 21, 1980, we set an advance interim rate of compensation for Air New Mexico, Inc. for the provision of essential air service to Alamogordo and Silver City. The rate is \$40,336 for 30-day periods beginning April 1, 1980. The April payment was processed and made promptly upon issuance of Order 80-4-163. On May 6 Air New Mexico submitted its claim for the period May 1-May 30. We will not pay that claim for reasons that follow.

It has become apparent that this compensation must be adjusted. It was set for service with 16-passenger seat Jetstream aircraft, yet information available to us shows that during April about 25 percent of Air New Mexico's essential service was provided with eight-seat Cessna-402 equipment. Since that aircraft costs only about one-half as much as the Jetstream to operate, it is evident that the April payment was excessive. Further, Air New Mexico's operating performance during the first 12 days of May suggests that frequent substitution with eight-seat aircraft is likely to continue. The interim rate must be adjusted to reflect such substitutions.

Also, in April Air New Mexico cancelled about 20 percent of its scheduled flights in its Alamogordo and Silver City markets. It did not operate at all for several days in early May. Thus, whether or not it operates and with what type of aircraft has been a day-to-day proposition. Obviously there is considerable risk in continuing to make advance payments to Air New Mexico on the basis of the service it is scheduled to operate. This has already led to a substantial overpayment for April. We can only compensate a carrier for losses sustained in providing essential service. We cannot make payments in advance, therefore, where a strong possibility exists that the service may not be provided. This is precisely what occurred in April. We must therefore cease making payment in advance notwithstanding the carrier's clear cash flow difficulties.

Accordingly, we will reduce Air New Mexico's maximum compensation for each 30-day period from \$40,336 to \$25,149 to reflect the lower cost of operating part of its service with C-402 aircraft. This rate assumes the mix of aircraft Air New Mexico operated in April (30-percent C-402 aircraft and 70-percent Jetstream aircraft). Should this relationship change substantially, we will again revise the rate of compensation. Adjusting the \$25,149 maximum payment for April to reflect cancelled flights further reduces the compensation requirement to \$22,214. Thus the advance payment made for April over-compensated Air New Mexico by \$18,122.¹ As a consequence, further compensation will not be due for services provided beginning with May 1, 1980, until Air New Mexico's losses exceed \$18,122.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204, 419, and 1002(b) thereof, and the regulations promulgated in 14 CFR 302 and 324:

1. We adjust the interim level of compensation set by Order 80-4-163 to \$97.86 per scheduled flight completed on and after May 1, 1980, subject to a maximum compensation of \$25,149 for each 30-day period,² provided, that no compensation will be paid until losses so calculated exceed \$18,122;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board,³

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-17245 Filed 6-5-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363 and 37687]

Former Large Irregular Air Service Investigation and Action Air Cargo Corp.; Hearing

Notice is hereby given, that a hearing in the above-entitled proceeding now

¹ The advance payment (\$40,336) less the estimated loss (\$22,214).

² Air New Mexico's schedules in both of these markets exceed essential service requirements. For the purposes of determining compensation we will recognize for each weekday and each weekend period a maximum of three roundtrip flights (six departures) in the Alamogordo-Albuquerque market and two roundtrip flights (four departures) in the Silver City-Albuquerque market.

³ All Members concurred.

assigned to be held on June 17, 1980, at 10:00 a.m. (local time), (45 FR 32359, May 15, 1980) is postponed until further notice.

Dated at Washington, D.C. June 2, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80-17239 Filed 6-5-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37873]

Golden West Airlines Co. Fitness Investigation; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on June 17, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C. June 2, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80-17240 Filed 6-5-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-5-150; Docket 38023, et al.]

Blanket Waiver of Name Condition to All Foreign Charter Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-5-150, Docket 38023, et al.

SUMMARY: The Board's order grants exemptions to two foreign charter operators to allow them to operate as foreign tour operators without permits pending a final rule governing such exemptions. The Board also granted a blanket exemption from the condition that foreign charter operators name their nationality on all public documents, pending the completion of the rulemaking, which has proposed to deregulate foreign charter operators.

DATES: Adopted: May 21, 1980. Effective: The exemptions are effective immediately and shall expire 90 days after the Board adopts a final rule in Docket 38023.

FOR FURTHER INFORMATION CONTACT: Richard M. Loughlin, Chief, Regulators Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5878.

SUPPLEMENTARY INFORMATION: The Board has issued a proposed rulemaking to exempt foreign charter operators from permit requirements of section 402 of the Act and replace those requirements with

a simple registration as a means for obtaining operating authority in the United States.¹ In that rulemaking we tentatively decided not to require foreign charter operators to identify their nationality in their advertisements, tickets, stationary, or other public documents.² We see no regulatory purpose that would be served by continuing to impose the condition at this time. In our view, continuation of the condition imposes an unnecessary burden on foreign tour operators—one that is unique to this small segment of the air transportation industry—and that immediate relief from this condition is warranted. Therefore, we find that grant of this interim exemption is consistent with the public interest. This interim exemption is permissive. However, any tour operator taking advantage of the exemption does so at its own risk and may be subject to a name requirement should the Board reverse its tentative decision under the new rule when it is finally adopted.

The complete text of Order 80-5-150 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-5-150 to that address.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-17243 Filed 6-5-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-5-178; Docket 35275]

Petition of Air New England for Subsidy

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80-5-178 fixing final part period rate and proposing new rate for Air New England, Docket 35275.

SUMMARY: The Board fixed a final rate for subsidy for Air New England (ANE) for the period March 16, 1979, through December 31, 1979. The Board proposed a new rate for calendar years 1980, 1981, and 1982.

DATES: Adopted: May 27, 1980. Notice of Objections due: June 11, 1980.

ADDRESSES: Notice of objections should be filed in Docket 35075, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

PERSON TO CONTACT FOR FURTHER INFORMATION:

John R. Hokanson, Chief, Air Carrier Subsidy Need Division, Bureau of

¹ See EDR-398/SPDR-77/ODR-20, 45 FR 26084, April 17, 1980.

² Ibid., 26085 for discussion of Board's rationale to no longer impose this condition.

Domestic Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5364.

SUPPLEMENTARY INFORMATION: Based on the general understanding that a quick final rate was imperative if a complete cessation of service by ANE was to be avoided, and that a restructuring and phase-down of subsidy-eligible services was necessary over the coming two-and-one-half years, an informal rate conference was convened on May 9, 1980, to determine if it was possible to quickly set a final rate which addresses the major concerns expressed by the Board in Order 80-4-120 while allowing the carrier the opportunity to stabilize its financial situation.

An agreement was reached to finalize a rate for the nine-and-one-half month past period ending December 31, 1979, and establish a future subsidy rate for 1980, 1981, and 1982. As part of this agreement, ANE is to reduce its subsidy-eligible seat-miles through the phase-out of eligible points in 1981 and 1982 so that no section 406 subsidy would be paid to ANE after 1982.¹

We find that the fair and reasonable final rate of compensation to be paid Air New England for the transportation of mail by aircraft, or for the provision of facilities and services for the transportation of mail by aircraft, between the points between which the carrier has been authorized to transport mail by its certificate of public convenience and necessity, for the period March 16, 1979, through December 31, 1979, inclusive, is the sum of (a) the carrier's service mail pay as established in other orders of the Board² and (b) subsidy of \$4,173,426.³

The complete text of Order 80-5-178 is available from our Distribution Section, Room 516, 1825 Connecticut Ave., N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-5-178 to that address.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-17244 Filed 6-5-80; 8:45 am]
BILLING CODE 6320-01-M

¹ By voluntarily relinquishing its subsidy under section 406 after 1982 the carrier does not lose its ability to be compensated under section 419 if necessary.

² This order is not intended to affect Air New England's service mail rates as established in other applicable orders of the Board.

³ This will result in a lump sum payment for the 3/16/79-12/31/79 period of \$583,137 since the carrier has already received temporary subsidy for the same period of \$3,590,289.

[Docket 26973; Order 80-5-196]

Application of Aeromar, C. por A

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80-5-196.

SUMMARY: The Board proposes to approve the following application: Applicant: Aeromar, C. por A. Application Date: August 9, 1974 Docket: 26973.

AUTHORITY SOUGHT: Renewal and amendment of its foreign air carrier permit to engage in non-scheduled foreign air transportation of property between the Dominican Republic and Florida, Puerto Rico and the U.S. Virgin Islands, and to perform cargo charters.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN June 23, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, Argo, S.A., the Department of Transportation, the Department of State and the Ambassador of the Dominican Republic. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS: Docket 26973, Docket Section, Civil Aeronautics Board.

APPLICANT: Aeromar, C. por A. c/o Allan W. Markham, Esq., 2000 P Street N.W., Suite 300 Washington, D.C. 20036.

INTERVENOR: Argo, S.A. c/o Robert M. Beckman, 1001 Connecticut Ave., N.W., Washington, D.C. 20036.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Peter B. Schwarzkopf, Assistant General Counsel, International Affairs, Civil Aeronautics Board; (202) 673-5928.

By the Civil Aeronautics Board: May 29, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-17242 Filed 6-5-80; 8:45 am]
BILLING CODE 6320-01-M

[Order 80-5-221]

Eugene-Portland/Seattle/Los Angeles/San Francisco

Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (80-5-221).

SUMMARY: The Board is instituting the Eugene-Portland/Seattle/Los Angeles/San Francisco Subpart Q Proceeding and is proposing to grant unrestricted authority to Pacific Southwest Airlines in the Eugene-Portland/Seattle/Los Angeles/San Francisco markets under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than July 7, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 37820, which we have entitled the Eugene-Portland/Seattle/Los Angeles/San Francisco Subpart Q Proceeding. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Pacific Southwest Airlines, Aspen Airways, Baja Cortez Airlines, Braniff International Airways, C&M Airlines, Golden Gate Airlines, Shasta Air and Sun Aire Lines; California Transportation Commission, Aeronautics Subcommittee; Oregon State Department of Transportation, Aeronautics Division; Washington State Department of Transportation, Division of Aeronautics; Mayors of Eugene, Los Angeles, Portland, Oregon, San Francisco and Seattle; Manager, Mahlon Sweet Field; General Manager, Los Angeles International Airport; Director, Aviation, Portland International Airport; Director, Airport, San Francisco International Airport; and Director,

Aviation, Seattle-Tacoma International Airport.

FOR FURTHER INFORMATION CONTACT:

Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5384.

SUPPLEMENTARY INFORMATION: The complete test of order 80-5-221 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-5-221, to that address.

By the Bureau of Domestic Aviation: May 30, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-17241 Filed 6-5-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11-80]

Proposed Foreign-Trade Zone; Jacksonville, Fla.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Jacksonville Port Authority, a Florida public corporation, requesting authority to establish a general-purpose foreign-trade zone in the City of Jacksonville, Florida, within the Jacksonville Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 USC 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 29, 1980. The applicant is authorized to make this proposal under its charter (Chapter 63-1447, 1963 Bylaws of Florida), as well as the State's general provision on foreign-trade zones (Chapters 288.36-.37, Florida Statutes).

The proposal calls for the establishment of a general-purpose zone on a 143-acre parcel owned by the applicant and located near the Jacksonville International Airport, some 8 miles north of downtown Jacksonville. The parcel is part of a 7,000-acre tract assembled by the applicant which has been designated in the City's long range comprehensive development and zoning plan for distribution and light industrial facilities. Initially, a general-purpose warehouse facility of some 30,000 square feet would be constructed for zone operations within a 5-acre portion of the

proposed zone, with the remainder to be developed as needed. The facility will be either operated by the applicant or contracted to a private developer/operator.

The application contains economic data and information concerning the need for a zone in the Jacksonville area. Several firms have indicated their intention to use the requested zone area for storage, distribution, repackaging, and light manufacturing activities on such products as marine parts and supplies, sporting goods, heavy construction equipment, automotive parts, luggage, and surgical instruments.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; James R. Cahill, Director, Inspection and Control Division, U.S. Customs Service, Region IV, 99 S.E. 5th Street, Miami, Florida 33131; and Colonel James W. R. Adams, District Engineer, U.S. Army Engineer District Jacksonville, P.O. Box 4970, Jacksonville, Florida 32201.

As part of its investigation, the Examiners Committee will hold a public hearing on June 26, 1980, beginning at 9:00 a.m., in the Public Meeting Room of the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377-2862) by June 19, 1980. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary at any time from the date of this notice through July 28, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations: U.S. Department of Commerce Satellite Office, Jacksonville Area Chamber of Commerce, IBM Building, Suite 100, 815 S. Main Street, Jacksonville, Florida 32207.

Office of the Executive Secretary,
Foreign-Trade Zones Board, U.S.
Department of Commerce, Room 6886-B,
14th and E Streets, NW., Washington,
D.C. 20230.

Dated: June 3, 1980.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 80-17263 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

University of Michigan; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street NW, (Room 735) Washington, D.C.

Docket No. 80-00054. Applicant: University of Michigan, Biological Station, 4053 Natural Science Bldg., Ann Arbor, MI 48109. Article: Gas Exchange Apparatus. Manufacturer: Heinz Walz Mess-und Regeltechnik, West Germany. Intended use of article: The article is intended to be used to study the gas exchange (particularly of carbon dioxide) of leaves and stems of forest trees under both ambient and artificial conditions. The rate of carbon dioxide exchange between plant parts (leaves, stems) will be measured through 24 hour periods to get daily time-course of net photosynthesis or respiration. Measurements will also be made in which light intensity, temperature, and carbon dioxide and oxygen concentrations will be varied. These latter experiments will provide a means for determining important plant properties which will be used to model photosynthetic and respirator response.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a proper environment in the field for the leaf while attached to the plant as well as the required control of temperature, humidity, and gas flows. The Department of Health, Education and Welfare advises in its memorandum

dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-17135 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-25-M

Department of Commerce; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00069. Applicant: U.S. Department of Commerce, National Bureau of Standards, Washington, D.C. 20234. Article: Electron Energy Loss Spectrometer Component, Type 107. Manufacturer: Kernforschungsanlage, Julich GMBH, West Germany. Intended use of article: The article is intended to be used to study the vibrational properties of chemisorbed layers on single crystal surfaces to determine the structure of the chemisorbed species. Electron energy losses will be measured.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purpose as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides high resolution (10 millielectron volts) vibrational spectra recorded from the energy loss of electrons specularly reflected from a surface. The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that

(1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-17133 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-25-M

University of California, San Diego; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 80-00061. Applicant: University of California, San Diego, Mail Code M-023, Department of Medicine, La Jolla, CA 92093. Article: 2 Bicycle Ergometers. Manufacturer: Northwick Park Hospital, United Kingdom. Intended use of article: The article is intended to be used for the study of human subjects exercising at high altitude. These subjects will be studied to determine their ability to adapt to serve hypoxic stress. Subjects will exercise at present work loads on the bicycle ergometer to determine their maximal work capacity and oxygen consumption at 20,000 ft. elevation and 26,000 ft. elevation.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to measure work loads at remote sites and can be carried as a backpack (it is collapsible and weighs about 25

kilograms). The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-17134 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

Correction of the Announcement that appeared in the *Federal Register* on May 15, 1980 for Gary Business Development Center. The closing date of September 1, 1980 is changed to July 15, 1980. The funding level and period of performance are not changed. An application kit can be obtained in writing. Project I.D. Number is 05-60-21103-00. 11.800 Minority Business Development, (Catalog of Federal Domestic Assistance).

Dated: June 3, 1980.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 80-17262 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss groundfish, herring, scallops, lobster, Scientific and Statistical Committee report, as well as other business.

DATES: The meeting will convene on Wednesday, June 25, 1980, at

approximately 10 a.m., and will adjourn on June 26, 1980, at approximately 5 p.m. The meetings are open to the public, and may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Holiday Inn, Route One, Peabody, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Park, Five Broadway, Route One, Saugus, Massachusetts 01906.

Dated: June 3, 1980.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 80-17267 Filed 6-5-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Addition

AGENCY: Committee for Purchase From the Blind and Other severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1980 a commodity to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: June 6, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 4, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 23047) of proposed addition to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1980:

Class 7530—NO NSN

Divider, Separation, P.S. Item 01037B.

C. W. Fletcher,
Executive Director.

[FR Doc. 80-17179 Filed 6-5-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received proposals to delete from Procurement List 1980 a commodity produced by and a service provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 9, 1980.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodity and service from Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 5660

Fencing, Wire and Wood Picket, 5660-00-257-3860.

SIC 7349

Janitorial Service, Federal Building, Manchester, New Hampshire.

C. W. Fletcher,
Executive Director.

[FR Doc. 80-17180 Filed 6-5-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 3, 1980.

The USAF Scientific Advisory Board ad Hoc Committee to Review the Air Force Manufacturing Technology (MANTECH) Program will meet on June 23-24, 1980 at the Pentagon. The purpose of the meeting is to review the management and cost effectiveness of the MANTECH Program. The Committee will meet from 8:30 a.m. to 5:00 p.m. each day.

This meeting will be closed to the public in accordance with Section

552b(c) of Title 5, U.S.C., specifically subparagraph (4).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-17130 Filed 6-5-80; 8:45 am]

BILLING CODE 3910-01-M

New System of Records

AGENCY: Department of the Air Force.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATES: This system shall be effective as proposed without further notice on July 7, 1980, unless comments are received on or before July 7, 1980, which would result in a contrary determination.

ADDRESS: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD(S), Room 4A-1088, The Pentagon, Washington, D.C. 20330, Telephone: (202) 694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 522a) Pub. L. 93-579 have been published to date in the Federal Register at:

FR Doc 79-37052 (44 FR 74145) December 17, 1979.

FR Doc 80-2008 (45 FR 5514) January 23, 1979.

FR Doc 80-6232 (45 FR 13181) February 28, 1980.

FR Doc 80-8307 (45 FR 17627) March 19, 1980.

The Department of the Air Force has submitted a new system report dated May 22, 1980 for this new system report under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the Federal

Register (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense,
June 2, 1980.

F05002 SAC A

SYSTEM NAME:

SAC Operations Personnel Training Management System.

SYSTEM LOCATION:

At Air Force (AF) installations, Deputy Commander for Missile Operations within the Strategic Air Command (SAC) and Deputy Chief of Staff, Director of Missile Operations at SAC Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Strategic Air Command military personnel assigned to missile operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains computerized data and manual files related to training/evaluation accomplishment, crew number, type training/evaluation, discrepancies noted, evaluation scores, name, rank, date of birth, unit assigned, date of separation, date arrived station.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To develop a record source of operations personnel, at unit level, in order to determine overall job qualifications, capabilities, and historical data for analysis by unit and Major Air Command personnel responsible for maintaining a training program. The files will provide a source of data to help insure weapon system currently and future training requirements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer magnetic tapes computer printouts, and manual file folders.

RETRIEVABILITY:

Retrieved by name or unique system identification number.

SAFEGUARDS:

Records are accessed by custodian of unit files and by personnel responsible

for servicing the record system in performance of official duties. The computer file is maintained on computer disc/tape by computer operations personnel. This computer file is kept in locked rooms or drawers.

RETENTION AND DISPOSAL:

Computerized and manual files are destroyed when superseded, or on reassignment from missile operations duties or separation of the individual. Destruction of manual files is accomplished by burning, shredding, tearing, pulping or macerating. Computer tapes are destroyed by overwriting within 30 days after member is reassigned, transferred or separated.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Director of Missile Operations, Strategic Air Command, Offutt AFB, NE 68113 and at Strategic Air Command missile bases, the Deputy Commander for Operations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from Director of Missile Operations, Strategic Air Command, Offutt AFB, NE 68113, telephone (402) 294-6091. Requester should be able to provide sufficient proof of identity such as name, social security number, duty station, place of employment, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Access to files is controlled and must be authorized by Deputy Chief of Staff, Director of Missile Operations or at organizational level by the Deputy Commander for Operations. Requests from individuals should be addressed to the Missile Wing Deputy Commander for Operations or his representative.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records and for contesting and appealing initial determination by the individual concerned may be obtained from the systems manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, instructors/evaluators and individual's performance during training/evaluation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-17287 Filed 6-5-80; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Deletion and Amendment to Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of amendment to system of records.

SUMMARY: The Department of the Navy proposes to amend one system of records subject to the Privacy Act of 1974. The specific changes to the system being amended are set forth below followed by the system published in its entirety, as amended.

DATE: The system shall be amended as proposed without further notice on July 6, 1980, unless comments are received on or before July 6, 1980, which would result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, Pentagon, Washington, D.C. 20350, telephone: 202-694-2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 522a (Pub. L. 93-579) have been published in the Federal Register as follows:

FR Doc (44 FR 67703) November 27, 1979
FR Doc (44 FR 68947) November 30, 1979
FR Doc (44 FR 74553) December 17, 1979
FR Doc (45 FR 13794) March 3, 1980
FR Doc (45 FR 32037) May 15, 1980
FR Doc (45 FR 33679) May 20, 1980

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense,
June 2, 1980.

N0003401

SYSTEM NAME:

Civilian Pay System (44 FR 74606) 17 Dec 79

CHANGES:

SYSTEM LOCATION:

Change code in second line of address to read "(NAFC-42)" vice "(NCF-123)".

CATEGORIES OF RECORDS IN THE SYSTEM:

After the words "leave records" in the second line, insert the phrase "applications for leave; overtime

authorizations, * * * After the last word in the paragraph, insert the following: " * * * and case files which contain requests for waiver of erroneous payment of pay for civilian employees".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add the following entry at the end of the last paragraph: "To provide to financial organizations lists of those employees who make deposits and the amount of the deposit to each financial organization. To provide officials of labor organizations recognized under Executive Order 11491, as amended, with information as to the identity of employees contributing dues each pay period and the amount of dues withheld from each contributor. To provide information to the General Accounting Office on those requests for waiver of overpayments of pay which are forwarded to them for adjudication".

RECORD SOURCE CATEGORIES:

In the second line, after the words "and attendance records" insert the phrase: "applications for leave and overtime authorizations, * * *"

N0003401

SYSTEM NAME:

Civilian Pay System

SYSTEM LOCATION:

Decentralized, maintained by 125 Navy and Marine Corps civilian payroll offices; a list is available from: Commander, Navy Accounting and Finance Center (NAFC-42), Washington, D.C. 20376.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees who are employed by Navy and Marine Corps activities and are paid from appropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual civilian pay records, retirement records and leave records; applications for leave; overtime authorizations; substantiating documents such as personnel action forms effecting new appointments, separations, promotions, demotions, and deduction changes; Internal Revenue Service Form W-4; state and city tax information; authorizations for deductions, i.e., savings bonds, group life insurance, health benefits, overpayments, indebtedness to the Government; court orders for garnishment of wages for child support and alimony payments; allotments, i.e., union dues, charity contributions, savings allotments, special allotments

for overseas employees; tax levies; claims; award payments; special pay; allowances and differentials and case files which contain requests for waiver of erroneous payment of pay for civilian employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Departmental Regulations

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes: To pay all Navy and Marine Corps civilian employees, maintain leave and retirement records and to record, report and account for government expenditures for personal services.

Users: Navy and Marine Corps civilian payroll offices.

Uses: Provides a means for paying, recording and accounting for government expenditures for personal services of Navy and Marine Corps civilian employees; provides time and attendance information to individual employees and management; provides audit trail for GAO, Navy Area Audit, and internal audit procedures; provides federal, state, and city tax information to appropriate authorities, provides retirement information and monies to the Office of Personnel Management (OPM) for computation for annuities; provides other data to OPM as required for special studies. To the Treasury Department in connection with check issuance, the Veterans Administration in regard to Disability or Severance Pay Entitlement, the Social Security Administration for FICA Wage reporting; the Internal Revenue Service and state and local tax authorities for computing or resolving tax liability. To state employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees. To provide to financial organizations lists of those employees who make deposits and the amount of the deposit to each financial organization. To provide officials of labor organizations recognized under Executive Order 11491, as amended, with information as to the identity of employees contributing dues each pay period and the amount of dues withheld from each contributor. To provide information to the General Accounting Office on those request for waiver of overpayments of pay which are forwarded to them for adjudication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on magnetic tapes, disc, microfilm/microfiche and punched cards. Manual records on manual card files and in file folders.

RETRIEVABILITY:

By name, social security number, or locally assigned identification number.

SAFEGUARDS:

Locked fireproof cabinets for retirement records. Metal cabinets for manual payroll and leave records within locked rooms. The computer facility and terminal are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to personnel engaged in payroll processing, auditors, investigative officials and management personnel.

RETENTION AND DISPOSAL:

Payroll records are maintained on-site for 2 years after completion of on-site audits by GAO; if no on-site audit is performed, retain records on-site for 4 years, then shipped to Federal Record Center where they are retained for 56 years.

Leave Records—same as above, except held by Federal Records Center for ten years.

Retirement Registers—same as above, except are destroyed rather than sent to Federal Record Center. Retirement records are maintained until employee separates; if he/she goes to another Navy or Marine Corps activity, retirement records are sent to that activity; if he/she goes to another agency or separates, sent to OPM.

SYSTEM MANAGER(S) AND ADDRESS:

Overall policy and procedure for the Civilian Payroll System are established by the Commander, Navy Accounting and Finance Center, Washington, D.C. 20376. A list of the system managers by payroll activity is available from Navy Accounting and Finance Center (NAFC-42).

NOTIFICATION PROCEDURE:

Civilian employees can directly contact the system manager of his/her payroll activity. If unknown, the inquiry should be submitted to the Commander, Navy Accounting and Finance Center, address above. Requester should provide full name, social security number, identification number, if applicable, activity where employed and

information desired. An individual can visit his/her payroll office on any matter concerning his/her pay.

RECORD ACCESS PROCEDURES:

Employees have access to their individual pay, leave and retirement records. The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Standard Form 50's (personnel actions), time and attendance records, applications for leave and overtime authorizations, retirement records, federal, state and tax forms, deduction authorizations, allotment authorizations, court orders for garnishment of wages for child support and alimony payments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-17266 Filed 6-5-80; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

San Juan Islands Area Service, Draft Facility Location Supplement to Fiscal Year 1979 Proposed Program Environmental Impact Statement, Availability of Draft Supplement

Notice is hereby given that the Bonneville Power Administration (BPA), in compliance with the National Environmental Policy Act of 1969, has prepared and is distributing a Draft Facility Location Supplement, San Juan Islands Area Service, to its Fiscal Year 1979 Proposed Program Environmental Impact Statement (EIS). This supplement assesses potential environmental impacts associated with construction of proposed new transmission facilities to serve load growth in the San Juan Islands of Washington State.

Because there is no practicable alternative, the proposed new transmission cable will be partly located within the coastal floodplains of the San Juan Islands. A map of the proposed transmission route is contained in the draft supplement.

Copies of the draft facility location supplement are available for public inspection at designated Federal depositories (for location, contact the Environmental Manager, Bonneville

Power Administration, P.O. Box 3621-SJ, Portland, Oregon 97208) and at Department of Energy public document rooms located at:

Library, FOI—Public Reading Room
GA-152, Forrestal Building, 1000 Independence Avenue SW.,
Washington, D.C.;
BPA, Washington, D.C., Office, Room 3352, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C.;
Library, BPA Headquarters, 1002 NE Holladay Street, Portland, Oregon;
And in the following BPA Area Office:
Seattle Area Office, Room 250, 415 First Avenue North, Seattle, Washington.

The draft facility location supplement is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed program. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

Single copies are available upon request; contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621-SJ, Portland, Oregon 97208, or the Seattle Area Office listed above.

Dated at Portland, Oreg., this 30th day of April 1980.

Ray Foleen,
Acting Administrator.

[FR Doc. 80-17138 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration Telum, 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 Telum, Inc., 3227 Canyon Road, Provo, Utah 84601. This Proposed Remedial Order charges Telum, Inc., with pricing violations in the amount of \$302,692.69, connected with the resale of middle distillate fuel during the time period December 1, 1973, through April 30, 1974, in the State of Arizona.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, 1075 South Yukon Street, P.O. 26247 Belmar Branch, Lakewood, CO 80226, phone (303) 234-3195. On or before June 23, 1980, 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 Lakewood, Colo., on the 28th day of May 1980.

Robert Templeton,

Acting District Manager of Enforcement,
Rocky Mountain District.

Concurrence by:

Charles F. Dewey,
Regional Counsel.

[FR Doc. 80-17128 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (P. L. 92-463, 86 Stat. 770), notice is given of the following advisory committee meeting:

Name: High Energy Physics Advisory Panel.
Date and Time: Monday, June 30, 1980—9:00 a.m. to 6:00 p.m.; Tuesday, July 1, 1980—9:00 a.m. to 4:00 p.m.

Place: Department of Energy, Room A-410, Germantown, Maryland.

Contact: Dr. P. K. Williams, Secretary, High Energy Physics Advisory Panel, Department of Energy, Mail Stop J-309, Washington, D.C. 20545, Telephone: 301-353-3367.

Purpose of Committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda:

- Discussions of the fiscal year 1980 and fiscal year 1981 DOE and NSF budgets for High Energy Physics.
- Presentation and discussion of the Report of the HEPAP Subpanel on Review and Planning for the U.S. High Energy Physics Program.
- Discussions of the DOE and NSF budgets for fiscal year 1982 and beyond.
- Status reports from SLAC, Fermilab and BNL on current projects.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at 202-252-5187. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, SW., Washington,

D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on May 30, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-17129 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Environment

Advisory Committee on Atmospheric Carbon Dioxide; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Advisory Committee on Atmospheric Carbon Dioxide.

Date and time: July 7, 1980—10 a.m.—4:30 p.m.

Place: Conference Room C, Carnegie Conference Center (8th Floor), 11 DuPont Circle NW., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, 1000 Independence Avenue SW., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone 202-252-5187.

Purpose of committee: To give advice to the Department of Energy in the development of its role in environmental research dealing with the global effects of increasing levels of carbon dioxide from fossil fuel combustion and related matters. The Committee's guidance will be based on a thorough review of ongoing and planned national and international research activities in this area.

Tentative agenda: Report on CO2 Research Progress and Planning Meeting—Washington, April 24-25, 1980.

Discussion of: (1) DOE Carbon Dioxide Research Progress Report and (2) Comprehensive Plan for CO2 Research and Assessment.

How Serious is CO2? How soon?

DOE Carbon Dioxide Program Organization Institute for Energy Analysis Assessment Role.

Needed Actions and Other Discussion, Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will

be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000

Independence Avenue, S.W., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on May 29, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-17137 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Research and Development Panel of the Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Research and Development Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and Time: June 7, 1980—9:00 a.m. to 3:00 p.m.

Place: Department of Energy, Forrestal Building, Room 6A-110, 1000 Independence Avenue, S.W., Washington, D.C.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, M.S. 3F-032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Research and Development Panel will make recommendations to the parent Board.

Tentative Agenda:

- Formulate questions and issues for Panel consideration and response.
- Development outlines for Panel and Subpanel reports.
- Organizational matters.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting.

Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Presentations will be limited to subjects

on the agenda. The Chairman of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room 5B-180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 28, 1980.

Edward A. Frieman,

Director of Energy Research.

[FR Doc. 80-17402 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL80-12]

Boston Edison Co.; Order Establishing Hearing Procedures

Issued May 30, 1980.

On March 17, 1980, the Commission's staff, with the concurrence of Boston Edison Company (Edison), filed a motion for the establishment of hearing procedures. For the reasons stated below, the motion is granted.

Procedural History

On April 14, 1977, the Commission, by letter order, informed Edison of certain improper accounting entries.¹ The letter also directed Edison to notify the Commission whether it would consent to disposition of the disputed entries in accordance with the special procedures provided for in Section 41 of the Commission's rules.² By letter dated May 10, 1979, Edison rejected both Staff's proposed adjustments and the shortened procedures of Section 41, and requested that formal proceedings be initiated.

Since that time, Staff and Edison have attempted to resolve their dispute through settlement conferences. However, these conferences have been to no avail. In light of these facts, Staff, with the concurrence of Edison, filed the instant motion.

Notice of the instant motion was duly issued on April 4, 1980. On April 4, 1980, the Towns of Concord, Norwood, and Wellesley, Massachusetts (Towns) submitted a petition to intervene in the proceeding. The Towns state that they

¹ The disputed entries are (1) tax savings on abandonment loss (entry 3), and (2) excess allowance for funds used during construction (entries 4-6).

² See, 18 CFR 41.3, 41.6 (1979).

are full requirements customers of Edison and that they have a direct interest in Edison's treatment of the disputed entries. Furthermore, the Towns believe that no other party can represent their interests.

Discussion

Our rules state that where a party does not consent to the shortened procedures of Sections 41.3 and 41.6, or if at any stage of the proceeding prior to submission of the case to the Commission, a party in interest requests a hearing, the proceeding will be assigned for hearing as provided in Section 1.20 of the Commission's rules. 18 CFR 41.7 (1979). In the present case, both parts of Section 41.7 have been met. Therefore, we will grant Staff's motion and order that a hearing be held.

The Towns' petition to intervene indicates that they have an interest in this proceeding. Accordingly, we will grant their motion to intervene.

The Commission orders:

(A) The motion by the Commission's Staff for the establishment of hearing procedures is granted.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Commission, by Section 402(a)(2)(A) of the Department of Energy Organization Act, and pursuant to the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the accounting issues raised in the Commission's letter order of April 14, 1977, and as stated in footnote 1 of this order.

(C) The Towns of Concord, Norwood, and Wellesley are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided however*, that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference within thirty (30) days from the issuance of this order for the purpose of establishing such further procedural schedules and for a delineation of the issues as may be necessary. The presiding judge shall preside at the hearing ordered herein, and is authorized to rule upon all motions with the exception of motions to consolidate and to sever, and with the further exception of motions to dismiss,

as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17139 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[No. 212]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 2, 1980.

The Federal Energy Regulatory Commission received notices from the Jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines

Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-34368
2. 47-015-01411-0000
3. 103 000 000
4. Damson Oil Corp
5. Elk River #48
- 6.
7. Clay, WV
8. 58.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34369
2. 47-015-01412-0000
3. 103 000 000
4. Damson Oil Corp
5. Elk River #49
- 6.
7. Clay, WV
8. 7.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34370
2. 47-015-01414-0000
3. 103 000 000
4. Damson Oil Corp
5. Aloï #3
- 6.
7. Clay, WV
8. 27.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34371
2. 47-015-01424-0000
3. 103 000 000
4. Damson Oil Corp

5. Woods #1
- 6.
7. Clay, WV
8. 19.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34372
2. 47-015-01427-0000
3. 103 000 000
4. Damson Oil Corp
5. Aloï #4
- 6.
7. Clay, WV
8. 16.8 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34373
2. 47-099-00339-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G Coleman #5
6. Wayne Co
7. Wayne, WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc

1. 80-34374
2. 47-109-00405-0000
3. 108 000 000
4. Ashland Exploration Inc
5. W M Ritter Lumber Co. #129
6. Logan Wyoming
7. Wyoming, WV
8. 10.1 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34375
2. 47-015-01425-0000
3. 103 000 000
4. Damson Oil Corp
5. Woods #2
- 6.
7. Clay, WV
8. 5.4 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34376
2. 47-021-28040-0000
3. 108 000 000
4. Ro-Jo Industries Inc
5. Marsh #3
6. Glenville District
7. Gilmer, WV
8. 12.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34377
2. 47-033-00693-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 7
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34378
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34379
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34380
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34381
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34382
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34383
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34384
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34385
2. 47-033-00684-0000
3. 108 000 000
4. Patrick Petroleum Corp of Michigan
5. M Brannon No 3
6. Grassland
7. Harrison, WV
8. 8.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

10. Consolidated Gas Supply Corp

1. 80-34379
2. 47-103-02419-0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. James Higgins #1
6. Grant District
7. Wetzel, WV
8. 1.5 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34380
2. 47-103-23760-0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. S J Robinson No 2
6. Grant District
7. Wetzel, WV
8. 2.5 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34381
2. 47-041-28990-0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. H C Summers #2
6. Skin Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34382
2. 47-041-10030-0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. R B Linger #5
6. Skin Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34383
2. 47-041-21002-0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. R B Linger #4
6. Skin Creek District
7. Lewis, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34384
2. 47-041-02979-0000
3. 108 000 000
4. Pemco Gas Inc Agent
5. Richard Smith #1
6. Skin Creek District
7. Lewis, WV
8. 6.5 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34385
2. 47-103-02389-0000
3. 108 000 000
4. Pemco Gas Inc
5. J P Ashcraft No 4
6. Grant District
7. Wetzel, WV
8. 1.6 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.

1. 80-34386
2. 47-107-00811-0000
3. 108 000 000

4. Mohawk Oil Corp

5. C R Loiseau Hardwood Timber #2A
- 6.
7. Walker District Wood WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34387
2. 47-107-00813-0000
3. 108 000 000
4. Mohawk Oil Corp
5. C R Loiseau Hardwood Timber #3
- 6.
7. Walker District Wood, WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34388
2. 47-021-01311-0000
3. 108 000 000
4. Delbert Goff
5. Dewey Clowser #2
- 6.
7. Gilmer, WV
8. 4.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34389
2. 47-021-01417-0000
3. 108 000 000
4. Delbert Goff
5. Wirt Heeter #1
- 6.
7. Gilmer, WV
8. 3.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34390
2. 47-041-00614-0000
3. 108 000 000
4. Delbert Goff
5. Burl Moneyppenny #1
- 6.
7. Lewis, WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34391
2. 47-041-00663-0000
3. 108 000 000
4. Delbert Goff
5. S A Hall #1
- 6.
7. Lewis, WV
8. 2.7 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34392
2. 47-041-00703-0000
3. 108 000 000
4. Delbert Goff
5. S A Hall #2
- 6.
7. Lewis, WV
8. 2.7 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp

1. 80-34393
2. 47-017-02488-0000
3. 103 000 000
4. United Operating Co
5. Glen Cunningham #4
6. Cabin Run
7. Doddridge, WV
8. .0 million cubic feet

9. May 16, 1980

10. Columbia Gas Transmission Corp.
1. 80-34394
2. 47-017-02489-0000
3. 103 000 000
4. United Operating Co
5. Glen Cunningham #5
6. Cabin Run
7. Doddridge, WV
8. .0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.

1. 80-34395
2. 47-041-02741-0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Frye #2
6. Buck Run
7. Lewis, WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.

1. 80-34396
2. 47-041-02742-0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Frye #1
6. Buck Run
7. Lewis, WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.

1. 80-34397
2. 47-041-02747-0000
3. 103 000 000
4. Rockwell Petroleum Co
5. Frye #4
6. Buck Run
7. Lewis, WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp.

1. 80-34398
2. 47-017-00639-0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #2
6. West Union District
7. Doddridge County, WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.

1. 80-34399
2. 47-017-00640-0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #4
6. West Union District
7. Doddridge County, WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.

1. 80-34400
2. 47-017-00711-0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #3
6. West Union District
7. Doddridge County, WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.

1. 80-34401
2. 47-033-02225-0000

3. 108 000 000
4. James F Scott
5. R L Caynor #2
6. Union—District
7. Harrison, WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34402
2. 47-033-02226-0000
3. 108 000 000
4. James F Scott
5. A A Post
6. Union District
7. Harrison, WV
8. 12.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34403
2. 47-107-00770-0000
3. 108 000 000
4. Mohawk Oil Corp
5. C R Loiseau Hardwood Timber #1
- 6.
7. Walker District Wood WV
8. 3.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34404
2. 47-021-01263-0000
3. 108 000 000
4. Delbert Goff
5. Dewey Clowser #1
- 6.
7. Gilmer WV
8. 4.5 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34405
2. 47-067-00468-0000
3. 102 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #20
6. Gauley
7. Nicholas WV
8. 49.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80-34406
2. 47-067-00467-0000
3. 102 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #19
6. Gauley
7. Nicholas WV
8. 66.0 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80-34407
2. 47-067-00443-0000
3. 102 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #12
6. Gauley
7. Nicholas WV
8. 62.5 million cubic feet
9. May 16, 1980
10. Equitable Gas Co.
1. 80-34408
2. 47-039-03400-0000
3. 103 000 000
4. Cities Service Co
5. Kanawha City A-15
6. Kanawha City
7. Kanawha WV
8. 17.6 million cubic feet
9. May 16, 1980
10. Industrial Gas Corp.
1. 80-34409
2. 47-039-03399-0000
3. 103 000 000
4. Cities Service Co
5. Kanawha City A-14
6. Kanawha City
7. Kanawha WV
8. 35.2 million cubic feet
9. May 16, 1980
10. Industrial Gas Corp.
1. 80-34410
2. 47-017-02432-0000
3. 103 000 000
4. Cities Service Co
5. Maxwell B-28
6. Smithburg
7. Doddridge WV
8. 138.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Co.
1. 80-34411
2. 47-017-02433-0000
3. 103 000 000
4. Cities Service Co
5. Maxwell A-65
6. Smithburg
7. Doddridge WV
8. 47.3 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Co.
1. 80-34412
2. 47-015-20602-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Vera Reed #2
6. Big Sycamore Ck
7. Clay WV
8. 2.5 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Co.
1. 80-34413
2. 47-081-00398-0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B-2
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
- 10.
1. 80-34414
2. 47-081-00419-0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B-4
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
- 10.
1. 80-34415
2. 47-085-03874-0000
3. 103 000 000
4. Werco Inc
5. M C Sweeney #1
- 6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34416
2. 47-085-04272-0000
3. 103 000 000
4. Werco Inc
5. F P Marshall #7
- 6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34417
2. 47-085-04277-0000
3. 103 000 000
4. Werco Inc
5. J P Marshall #2
- 6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34418
2. 47-085-04315-0000
3. 103 000 000
4. Werco Inc
5. J O Lynch #5
- 6.
7. Ritchie WV
8. 14.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34419
2. 47-013-02415-0000
3. 108 000 000
4. United Petro Ltd
5. Earl Conley #2
- 6.
7. Calhoun WV
8. 2.9 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34420
2. 47-013-02428-0000
3. 108 000 000
4. United Petro Ltd
5. Earl Conley #3
- 6.
7. Calhoun WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34421
2. 47-013-00918-0000
3. 108 000 000
4. Bowser Gas & Oil Co
5. N E Sommers #4
- 6.
7. Calhoun WV
8. 10.9 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34422
2. 47-013-00949-0000
3. 108 000 000
4. Bowser Gas & Oil Co
5. N E Sommers #5
- 6.
7. Calhoun WV
8. 3.4 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp.
1. 80-34423
2. 47-017-00575-0000
3. 108 000 000
4. Ralph L Leaderbrand
5. J M L Smith #1
6. West Union District

7. Doddridge County WV
8. 2.8 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34424
2. 47-081-00407-0000
3. 102 000 000
4. Texas International Petroleum Corp
5. Rowland Land Co B-3
6. Marsh Fork
7. Raleigh WV
8. 40.0 million cubic feet
9. May 16, 1980
- 10.
1. 80-34425
2. 47-017-23750-0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Smith #1A
6. St Clair
7. Doddridge WV
8. 20.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34426
2. 47-017-24530-0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Droppelman #2
6. St Clair
7. Doddridge WV
8. 15.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34427
2. 47-015-01636-0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Alois #10
6. Buffalo District
7. Clay WV
8. 165.6 million cubic feet
9. May 16, 1980
10. Equitable Gas Company
1. 80-34428
2. 47-015-01291-0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Rider #1
6. Buffalo District
7. Clay WV
8. 24.3 million cubic feet
9. May 16, 1980
10. Equitable Gas Company
1. 80-34429
2. 47-015-01285-0000
3. 103 000 000
4. Sterling Drilling & Production Co
5. Hardway #1
6. Buffalo District
7. Clay WV
8. 8.1 million cubic feet
9. May 16, 1980
10. Equitable Gas Company
1. 80-34430
2. 47-001-01132-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. C Poe #1A
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34431
2. 47-001-01154-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #1
6. Belington Field
7. Barbour County WV
8. 120.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34432
2. 47-001-01152-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #2
6. Belington Field
7. Barbour County WV
8. 130.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34433
2. 47-001-01151-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. B Robinson #3
6. Belington Field
7. Barbour County WV
8. 110.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34434
2. 47-001-01135-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. L O Sturm #1B
6. Belington Field
7. Barbour County WV
8. 100.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34435
2. 47-001-01147-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. Myers #1
6. Belington Field
7. Barbour County WV
8. 100.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34436
2. 47-001-01133-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. C Poe #1B
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34437
2. 47-001-01134-0000
3. 103 000 000
4. Fox Drilling Co Inc
5. L O Sturm #1A
6. Belington Field
7. Barbour County WV
8. 25.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34438
2. 47-001-20117-2000
3. 103 000 000
4. Monitor Petroleum Corp
5. Monitor No 1 C Smarr Et Ux
6. Valley
7. Barbour WV
8. 108.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Corp
1. 80-34439
2. 47-035-01458-0000
3. 103 000 000
4. Devon Corp
5. Melvin E Moore #920
6. Parchment
7. Jackson WV
8. 18.0 million cubic feet
9. May 16, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34440
2. 47-085-04224-0000
3. 103 000 000
4. Russell V Johnson Jr
5. Riddle HRS et al #1
6. Murphy District
7. Ritchie WV
8. 15.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34441
2. 47-033-01712-0000
3. 103 000 000
4. Partick H Cunningham
5. John Hustead
6. Eagle
7. Harrison WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34442
2. 47-017-00773-0000
3. 108 000 000
4. L J Nicholson
5. Golden Well #1
6. Greenbrier District
7. Doddridge WV
8. 1.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34443
2. 47-017-01315-0000
3. 108 000 000
4. L J Nicholson
5. Golden Well #2
6. Greenbrier District
7. Doddridge WV
8. 1.2 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34444
2. 47-107-20077-6000
3. 103 000 000
4. Energy Unlimited Inc
5. Oris Johnson #1
6. Union
7. Wood WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34445
2. 47-073-20703-0000
3. 108 000 000
4. Energy Unlimited Inc
5. J W Elliott #1
6. Grant
7. Pleasants WV
8. 1.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34446

2. 47-073-20701-0000
3. 108 000 000
4. Energy Unlimited Inc
5. C A Janes #1
6. Grant
7. Pleasants WV
8. 5.0 million cubic feet
9. May 16, 1980
10. Consolidated Gas Supply Corp
1. 80-34447
2. 47-017-02450-0000
3. 107 000 000
4. Rockwell Petroleum Co
5. Fonce Brown #4A
6. St Clair
7. Doddridge WV
8. 30.0 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34448
2. 47-005-00717-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Company #12
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34449
2. 47-005-00727-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Company #14
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34450
2. 47-005-00776-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Courtney Company #15
6. Siler
7. Boone WV
8. 2.6 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34451
2. 47-059-00069-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #1
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34452
2. 47-059-00071-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #2
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34453
2. 47-059-0075-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #4
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34454
2. 47-059-00079-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Cotiga Development Co #5
6. Mingo
7. Mingo WV
8. 5.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34455
2. 47-099-00286-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G. Coleman #1
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34456
2. 47-099-00298-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G. Coleman #2
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34457
2. 47-099-00325-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G. Coleman #4
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34458
2. 47-099-00310-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Elizabeth G. Coleman #3
6. Wayne Co
7. Wayne WV
8. 12.1 million cubic feet
9. May 16, 1980
10. Columbia Gas Transmission Inc
1. 80-34459
2. 47-041-02721-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J M Jarvis 3462
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34460
2. 47-033-00810-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. B Stout 11791
6. West Virginia Other A-85772
7. Harrison WV
8. 4.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34461
2. 47-001-00228-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E George 10739
6. West Virginia Other A-85772
7. Barbour WV
8. 12.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34462
2. 47-109-00801-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consol Gas Supply 12444
6. Pineville Field Area-A-59442
7. Wyoming WV
8. 35.0 million cubic feet
9. May 16, 1980
10. General System Purchasers
1. 80-34463
2. 47-077-00186-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Donald Holmes 12432
6. Greer-Gladesville 290235
7. Monongalia WV
8. 45.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34464
2. 47-033-01256-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Edgar T. Williams 12440
6. West Virginia Other A-85772
7. Harrison WV
8. .0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34465
2. 47-033-01212-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. W G Allen 12293
6. West Virginia Other A-85772
7. Harrison WV
8. 30.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34466
2. 47-001-00958-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas 12382
6. West Virginia Other A-85772
7. Barbour WV
8. 36.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34467
2. 47-017-01904-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. J D McReynolds 12284
6. West Virginia Other A-85772
7. Doddridge WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34468
2. 47-013-02637-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. F C Knotts 12446
6. West Virginia Other A-85772

7. Calhoun WV
8. 65.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34469
2. 47-019-00323-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas 12388
6. West Virginia Other A-85722
7. Fayette WV
8. 22.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34470
2. 47-001-00902-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Guy D Young 12304
6. West Virginia Other A-85442
7. Barbour WV
8. 22.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34471
2. 47-019-00334-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Jeffrey MFG Co 12355
6. West Virginia Other A-85722
7. Fayette WV
8. 10.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34472
2. 47-033-01200-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. C M Lang 12312
6. West Virginia Other A-85772
7. Harrison WV
8. 25.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34473
2. 47-001-00854-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. George E Martin 12357
6. West Virginia Other A-85772
7. Barbour WV
8. 8.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34474
2. 47-087-03013-0000
3. 108 000 000
4. Pennzoil Co
5. David Simmons #13
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34475
2. 47-087-02691-0000
3. 108 000 000
4. Pennzoil Co
5. J M Perrine #2
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34476

2. 47-087-02552-0000
3. 108 000 000
4. Pennzoil Co
5. Holt-Lewis #1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34477
2. 47-087-01069-0000
3. 108 000 000
4. Pennzoil Co
5. L S Goff #W-9
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34478
2. 47-087-01062-0000
3. 108 000 000
4. Pennzoil Co
5. L S Goff #W-8
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34479
2. 47-087-01061-0000
3. 108 000 000
4. Pennzoil Co
5. L S Goff #W-7
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34480
2. 47-085-04096-0000
3. 108 000 000
4. Pennzoil Co
5. C F Beall #1
6. Murphy District
7. Ritchie WV
8. 1.3 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34481
2. 47-043-01554-0000
3. 108 000 000
4. Pennzoil Co
5. Herbert Adkins #2
6. Duval
7. Lincoln WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34482
2. 47-021-00108-0000
3. 108 000 000
4. Pennzoil Co
5. Simmons K C #1
6. Center
7. Gilmer WV
8. 1.2 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34483
2. 47-013-02367-0000
3. 108 000 000
4. G & C Gas Co
5. Geraldine Cunningham ETAL #2
6. Center District

7. Calhoun WV
8. 4.4 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34484
2. 47-013-02289-0000
3. 108 000 000
4. Central Gas Co
5. Fluharty #3
6. Center District
7. Calhoun WV
8. 5.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34485
2. 47-043-00586-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #12
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp
1. 80-34486
2. 47-043-00623-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #13
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp
1. 80-34487
2. 47-043-00653-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #14
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp
1. 80-34488
2. 47-013-22868-0000
3. 103 000 000
4. Industrial Gas Associates
5. C V Mills No 1
6. Sheridan District
7. Calhoun WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Cabot Corp
1. 80-34489
2. 47-017-22304-0000
3. 103 000 000
4. Industrial Gas Associates
5. O Husk #2
6. West Union Dist
7. Doddridge WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34490
2. 47-017-22310-0000
3. 103 000 000
4. Industrial Gas Associates
5. O Husk #1
6. West Union Dist
7. Doddridge Co WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34491

2. 47-085-24039-0000
3. 103 000 000
4. Industrial Gas Associates
5. Leeson No 1
6. Union Dist
7. Ritchie WV
8. 7.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34492
2. 47-085-24132-0000
3. 103 000 000
4. Industrial Gas Associates
5. Flesher No 1
6. Union District
7. Ritchie WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34493
2. 47-085-24133-0000
3. 103 000 000
4. Industrial Gas Associates
5. Flesher No 2
6. Union District
7. Ritchie WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34494
2. 47-085-24162-0000
3. 103 000 000
4. Industrial Gas Associates
5. T J Barnard No 1
6. Clay District
7. Ritchie WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34495
2. 47-039-03465-0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust #18
6. Cabin Creek
7. Kanawha WV
8. 35.0 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34496
2. 47-085-24164-0000
3. 103 000 000
4. Industrial Gas Associates
5. T J Barnard No 2
6. Clay District
7. Ritchie WV
8. 9.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34497
2. 47-039-03472-0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust #21
6. Cabin Creek
7. Kanawha WV
8. 50.0 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34498
2. 47-039-03473-0000
3. 103 000 000
4. Allegheny & Western Energy Corp
5. Ohley Trust #22
6. Cabin Creek
7. Kanawha WV
8. 34.0 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34499
2. 47-043-00325-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #3
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp
1. 80-34500
2. 47-043-00322-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #2
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp
1. 80-34501
2. 47-043-00310-0000
3. 108 000 000
4. Ashland Exploration Inc
5. Lincoln Mineral #1
6. McCorkle
7. Lincoln WV
8. 7.8 million cubic feet
9. May 19, 1980
10. Industrial Gas Corp
1. 80-34502
2. 47-045-01027-0000
3. 108 000 000
4. Pennzoil Co
5. Yawkey-Freeman #13
6. Yawkey-Freeman
7. Logan WV
8. 2.6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34503
2. 47-081-00462-0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A-4
6. Town
7. Raleigh WV
8. 14.8 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34504
2. 47-081-00478-0000
3. 108 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A-14
6. Town
7. Raleigh WV
8. 11.2 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34505
2. 47-081-00477-0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A-4
6. Shady Spring
7. Raleigh WV
8. 19.4 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34506
2. 47-081-00475-0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A-7
6. Town
7. Raleigh WV
8. 9.7 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34507
2. 47-085-00008-0000
3. 108 000 000
4. Pennzoil Co
5. W R Cunningham #1
6. Grant District
7. Ritchie WV
8. 3.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34508
2. 47-085-00553-0000
3. 108 000 000
4. Pennzoil Co
5. M C Morris #1
6. Grant District
7. Ritchie WV
8. 9.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34509
2. 47-081-00474-0000
3. 103 000 000
4. Appalachian Exploration & Devel Inc
5. Beaver Coal Company A-15
6. Town
7. Raleigh WV
8. 19.4 million cubic feet
9. May 19, 1980
10. Columbia Gas Transmission Corp
1. 80-34510
2. 47-013-02745-0000
3. 108 000 000
4. Pennzoil Co
5. Laura V Ash #1
6. Sherman District
7. Calhoun WV
8. 2.3 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34511
2. 47-013-02451-0000
3. 108 000 000
4. Pennzoil Co
5. Laura V Ash #5
6. Sherman District
7. Calhoun WV
8. .8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34512
2. 47-013-02221-0000
3. 108 000 000
4. Pennzoil Co
5. M W Shaffer #3
6. Lee
7. Calhoun
8. 1.8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34513
2. 47-013-01890-0000
3. 108 000 000
4. Pennzoil Co
5. L G Garrett #6
6. Lee

7. Calhoun WV
8. 2.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34514
2. 47-013-01725-0000
3. 108 000 000
4. Pennzoil Co
5. L G Garrett #5
6. Lee
7. Calhoun WV
8. 2.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34515
2. 47-085-01797-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. W L Stewart 10115
6. West Virginia Other A-85772
7. Ritchie WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34516
2. 47-103-00113-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. James M Allen 7739
6. West Virginia Other A-85772
7. Wetzel WV
8. 8.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34517
2. 47-045-00248-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Naaman Jackson 9492
6. Pineville Field Area A-59442
7. Logan WV
8. 16.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34518
2. 47-047-00759-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Pocahontas Land Corp 12462
6. Pineville Field Area A-59442
7. McDowell WV
8. 20.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34519
2. 47-041-02486-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Consolidated Gas Supply 12451
6. West Virginia Other A-85772
7. Lewis WV
8. 30.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34520
2. 47-041-02467-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. John P Hull 12452
6. West Virginia Other A-89772
7. Lewis WV
8. 6.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34521
2. 47-047-00770-0000
3. 103 000 000
4. Consolidated Gas Supply Corp
5. Pocahontas Land Corp 12503
6. Pineville Field Area A-59442
7. McDowell WV
8. 22.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34522
2. 47-033-01958-0000
3. 103 000 000
4. Patrick H Cunningham
5. Hill #1
6. Sardis
7. Harrison WV
8. 30.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34523
2. 47-013-02803-0000
3. 108 000 000
4. Pennzoil Co
5. Jarvis-Hamilton #1
6. Lee
7. Calhoun WV
8. 1.8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34524
2. 47-021-00095-0000
3. 108 000 000
4. Pennzoil Co
5. Bennett F S #3
6. Center
7. Gilmer WV
8. 1.7 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34525
2. 47-033-21916-0000
3. 103 000 000
4. Glenn H Johnson
5. Fortney #1
6. Eagle
7. Harrison WV
8. 45.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34526
2. 47-005-01123-0000
3. 108 000 000
4. Industrial Gas Corp
5. Bedford Etal 13-298
- 6.
7. Boone WV
8. 2.7 million cubic feet
9. May 19, 1980
10. Houdaille Industries Inc
1. 80-34527
2. 47-107-00879-0000
3. 103 000 000
4. Energex Corp
5. Walter Cain #1
6. Vienna
7. Wood WV
8. .0 million cubic feet
9. May 19, 1980
10. Gas Transport Inc
1. 80-34528
2. 47-041-00542-0000
3. 108 000 000
4. Ferrell L Prior
5. Cunningham #1
6. Courthouse District
7. Lewis WV
8. .7 million cubic feet
9. May 19, 1980
10. Equitable Gas Co
1. 80-34529
2. 47-085-03694-0000
3. 108 000 000
4. Ferrell L Prior
5. Zinn #1
6. Union District
7. Ritchie WV
8. 1.5 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34530
2. 47-039-02089-0000
3. 108 000 000
4. Ferrell L Prior
5. Garnett #1
6. Union District
7. Kanawha WV
8. 15.5 million cubic feet
9. May 19, 1980
10. Columbia Gas Trans Corp
1. 80-34531
2. 47-013-02068-0000
3. 108 000 000
4. Ferrell L Prior
5. Riddle #1
6. Lee District
7. Calhoun WV
8. 5.3 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34532
2. 47-013-02112-0000
3. 108 000 000
4. Ferrell L Prior
5. Board #1
6. Lee District
7. Calhoun WV
8. 5.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34533
2. 47-021-02024-0000
3. 108 000 000
4. Ferrell L Prior
5. H West #1
6. Troy District
7. Gilmer WV
8. 1.4 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34534
2. 47-021-02033-0000
3. 108 000 000
4. Ferrell L Prior
5. Woofter #1
6. Troy District
7. Gilmer WV
8. 3.1 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34535
2. 47-021-02042-0000
3. 108 000 000
4. Ferrell L Prior
5. Woofter #1
6. Troy District
7. Gilmer WV
8. 5.6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34536

2. 47-021-02124-0000
3. 108 000 000
4. Ferrell L Prior
5. Powell #1
6. Troy District
7. Gilmer WV
8. 2.1 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34537
2. 47-021-02211-0000
3. 108 000 000
4. Ferrell L Prior
5. Queen #1
6. Troy District
7. Gilmer WV
8. 10.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34538
2. 47-021-02221-0000
3. 108 000 000
4. Ferrell L Prior
5. Bollinger #1
6. Dekalb District
7. Gilmer WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34539
2. 47-021-02227-0000
3. 108 000 000
4. Ferrell L Prior
5. Reynolds #1
6. Dekalb District
7. Gilmer WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34540
2. 47-001-01004-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E Walker 6962
6. West Virginia Other A-85772
7. Barbour WV
8. 10.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34541
2. 47-001-01009-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Hoffman Trimble 7184
6. West Virginia Other A-85772
7. Barbour WV
8. 2.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34542
2. 47-005-00266-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Boone County Coal 9251
6. West Virginia Other A-85772
7. Boone WV
8. 4.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34543
2. 47-005-00277-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Boone County Coal Corp 9254
6. West Virginia Other A-85772
7. Boone WV
8. 2.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34544
2. 47-005-01172-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J D Allen 7243
6. West Virginia Other A-85772
7. Boone WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34545
2. 47-005-01178-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Federal Coal Co 7649
6. West Virginia Other A-85772
7. Boone WV
8. 1.0 million cubic feet
9. May 19, 1980
10. General System Purchaser
1. 80-34546
2. 47-005-01181-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. E M Arbogast 7663
6. West Virginia Other A-85772
7. Boone WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34547
2. 47-005-01190-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Matt Burgess #1 7718
6. West Virginia Other A-85772
7. Boone WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34548
2. 47-007-01250-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Belle Crutchfield 4108
6. West Virginia Other A-85772
7. Braxton, WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34549
2. 47-007-01252-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. May Carder 4467
6. West Virginia Other A-85772
7. Braxton WV
8. 4.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34550
2. 47-013-00420-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. B M Beirs 7790
6. West Virginia Other A-85772
7. Calhoun WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34551
2. 47-013-02669-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Morris Heirs 5160
6. West Virginia Other A-85772
7. Calhoun WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34552
2. 47-013-02675-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Jennie B Knotts 5674
6. West Virginia Other A-85772
7. Calhoun WV
8. 12.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34553
2. 47-013-02676-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Brown McDonald 5870
6. West Virginia Other A-85772
7. Calhoun WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34554
2. 47-033-01605-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. J W Williams 8178
6. West Virginia Other A-85772
7. Harrison WV
8. 3.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34555
2. 47-013-02677-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Luther Little 6023
6. West Virginia Other A-85772
7. Calhoun WV
8. 1.5 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34556
2. 47-013-02682-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. L Hunt 6234
6. West Virginia Other A-85772
7. Calhoun WV
8. 9.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34557
2. 47-013-02685-0000
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Lee Gainer 6325
6. West Virginia Other A-85772
7. Calhoun WV
8. 7.0 million cubic feet
9. May 19, 1980
10. General System Purchasers
1. 80-34558
2. 47-067-00484-0000
3. 108 000 000
4. Cities Service Co
5. Flynn Coal & Lumber Co #14
6. Gauley

7. Nicholas WV
8. 20.0 million cubic feet
9. May 19, 1980
10. Equitable Gas Co
1. 80-34559
2. 47-015-20683-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Neal #1
6. Big Sycamore Creek
7. Clay WV
8. 5.8 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34560
2. 47-015-01638-000
3. 108 000 000
4. Sterling Drilling and Prod Co Inc
5. Aloj #9
6. Buffalo District
7. Clay WV
8. 37.4 million cubic feet
9. May 19, 1980
10. Equitable Gas Co
1. 80-34561
2. 47-015-20699-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Arbogast #1
6. Big Sycamore Ck
7. Clay WV
8. 2.2 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34562
2. 47-015-20700-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Neal #2
6. Big Sycamore Creek
7. Clay WV
8. 11.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34563
2. 47-015-20719-0000
3. 108 000 000
4. American Petroleum Assoc Inc
5. Arbogast #2
6. Big Sycamore Ck
7. Clay WV
8. 8.5 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34564
2. 47-053-00166-0000
3. 103 000 000
4. Devon Corp
5. Dollie O Fisher #916
6. Parchment
7. Mason WV
8. 360.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34565
2. 47-053-00168-0000
3. 103 000 000
4. Devon Corp
5. Early Molze #915
6. Parchment
7. Mason WV
8. 360.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34566

2. 47-053-00173-0000
3. 103 000 000
4. Devon Corp
5. Williamson Pallet #885
6. Parchment
7. Mason WV
8. 90.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34567
2. 47-053-00174-0000
3. 103 000 000
4. Devon Corp
5. William Haught Hrs #890
6. Parchment
7. Mason WV
8. 36.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34568
2. 47-053-00175-0000
3. 103 000 000
4. Devon Corp
5. B M Grimm #888
6. Parchment
7. Mason WV
8. 18.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34569
2. 47-053-00176-0000
3. 103 000 000
4. Devon Corp
5. Elmer Hill #887
6. Parchment
7. Mason WV
8. 18.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34570
2. 47-053-00183-0000
3. 103 000 000
4. Devon Corp
5. Ivan Forbis #889
6. Parchment
7. Mason WV
8. 24.0 million cubic feet
9. May 19, 1980
10. Kaiser Aluminum & Chemical Corp
1. 80-34571
2. 47-041-00623-0000
3. 108 000 000
4. Ferrell L Prior
5. Carroll #1
6. Courthouse District
7. Lewis WV
8. 3.1 million cubic feet
9. May 19, 1980
10. Equitable Gas Co
1. 80-34572
2. 47-041-00725-0000
3. 108 000 000
4. Ferrell L Prior
5. Carroll #3
6. Courthouse District
7. Lewis WV
8. 1.8 million cubic feet
9. May 19, 1980
10. Equitable Gas Co
1. 80-34573
2. 47-021-02154-0000
3. 108 000 000
4. Ferrell L Prior
5. Ogdin Hrs #2
6. Dekalb District

7. Gilmer, WV
8. 1.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34574
2. 47-021-02153-0000
3. 108 000 000
4. Ferrell L Prior
5. Ogdin #1
6. Dekalb District
7. Gilmer, WV
8. 6.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34575
2. 47-021-02219-0000
3. 108 000 000
4. Ferrell L Prior
5. Arbuckle #2
6. Dekalb District
7. Gilmer, WV
8. 6.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34576
2. 47-021-02234-0000
3. 108 000 000
4. Ferrell L Prior
5. Cunningham #1
6. Dekalb District
7. Gilmer, WV
8. 7.7 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34577
2. 47-021-02283-0000
3. 108 000 000
4. Ferrell L Prior
5. Bolinger #2
6. Dekalb District
7. Gilmer, WV
8. 6.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34578
2. 47-085-01558-0000
3. 108 000 000
4. Ferrell L Prior
5. Ball #1
6. Union District
7. Ritchie, WV
8. 3.5 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34579
2. 47-021-02228-0000
3. 108 000 000
4. Ferrell L Prior
5. Simmons #1
6. Troy District
7. Gilmer, WV
8. 1.6 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp
1. 80-34580
2. 47-085-04169-0000
3. 103 000 000
4. Ferrell L Prior
5. Clee Leeson #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co
1. 80-34581

2. 47-085-04149-0000
3. 103 000 000
4. Ferrell L Prior
5. Batson #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34582
2. 47-085-03850-0000
3. 103 000 000
4. Ferrell L Prior
5. Campbell #1
6. Union District
7. Ritchie, WV
8. 135.0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34583
2. 47-085-03875-0000
3. 103 000 000
4. Ferrell L Prior
5. Hardwick #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Columbia Gas Trans Corp

1. 80-34584
2. 47-021-02925-0000
3. 103 000 000
4. Ferrell L Prior
5. Brown #1
6. Troy District
7. Gilmer, WV
8. 270.0 million cubic feet
9. May 19, 1980
10. Consolidated Gas Supply Corp

1. 80-34585
2. 47-107-00884-0000
3. 103 000 000
4. Energex Corp
5. Grace Shaffer #1
6. Vienna
7. Wood, WV
8. .0 million cubic feet
9. May 19, 1980
10. Gas Transport Inc

1. 80-34586
2. 47-107-00894-0000
3. 103 000 000
4. Energex Corp
5. Mt St Muzzleloading
6. Vienna
7. Wood, WV
8. .0 million cubic feet
9. May 19, 1980
10. Gas Transport Inc

1. 80-34587
2. 47-005-00928-0000
3. 108 000 000
4. Industrial Gas Corp
5. Little Coal Ld Co B2-224
6.
7. Boone, WV
8. 9.1 million cubic feet
9. May 19, 1980
10. Houdaille Industries Inc, Huntington

Alloys Inc, Libby-Owens Ford Co, Owens-
Illinois Inc

1. 80-34588
2. 47-085-04257-0000
3. 103 000 000
4. Ferrell L Prior

5. Sutton #1
6. Union District
7. Ritchie, WV
8. .0 million cubic feet
9. May 19, 1980
10. Carnegie Natural Gas Co

1. 80-34589
2. 47-041-02134-0000
3. 103 000 000
4. Ferrell L Prior
5. Helen Moran #1
6. Collins Settlement District
7. Lewis, WV
8. 54.0 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34590
2. 47-017-00383-0000
3. 108 000 000
4. Ferrell L Prior
5. Swentzel #1
6. West Union District
7. Doddridge, WV
8. 5.6 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34591
2. 47-017-00384-0000
3. 108 000 000
4. Ferrell L Prior
5. Neal Sentzel #1
6. West Union
7. Doddridge, WV
8. 5.6 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

1. 80-34592
2. 47-017-00438-0000
3. 108 000 000
4. Ferrell L Prior
5. Davis #2
6. Grant District
7. Doddridge, WV
8. 3.1 million cubic feet
9. May 19, 1980
10. Equitable Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 23, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17166 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[No. 213]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 2, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Texas Railroad Commission Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-34593/00238
2. 42-055-00000-0000
3. 103 000 000
4. Crystal Oil Co
5. Moses & Baggett B No. 29
6. Salt Flat
7. Caldwell, TX
8. 25.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co

1. 80-34594/00264
2. 42-211-30944-0000
3. 103 000 000
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No. 32
6. Humphreys-Douglas
7. Hemphill TX
8. 110.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co

1. 80-34595/00353
2. 42-393-30239-0000
3. 103 000 000
4. Helmerich & Payne Inc
5. Mills C No. 2
6. Cree Flowers (Douglas)
7. Roberts TX
8. 550.0 million cubic feet
9. May 21, 1980
10. Michigan Wisconsin Pipeline Co

1. 80-34596/00924
2. 42-239-31299-0000
3. 102 103 000
4. Everest Exploration Co
5. Stafford A-1
6. Kubenka (2790) Field
7. Jackson TX
8. 95.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co

1. 80-34597/00993
2. 42-497-00000-0000
3. 103 000 000
4. Mote Resources Inc
5. Pearson 78135
6. Boonsville (Bend Congl Gas)
7. Wise TX
8. 240.0 million cubic feet

9. May 21, 1980
 10. Southwestern Gas Pipeline Inc
 1. 80-34598/01148
 2. 42-497-30562-0000
 3. 103 000 000
 4. Mitchell Energy Corp
 5. R V Phillips No. 3
 6. Boonesville (Bend Congl)
 7. Wise TX
 8. 151.9 million cubic feet
 9. May 21, 1980
 10. Natural Gas Pipeline Co of America
 1. 80-34599/01227
 2. 42-211-00000-0000
 3. 103 000 000
 4. Monsanto Co
 5. Game No. 2
 6. Humphreys (Douglas)
 7. Hemphill TX
 8. 220.0 million cubic feet
 9. May 21, 1980
 10. Cities Service Gas Co
 1. 80-34600/01317
 2. 42-211-31016-0000
 3. 103 000 000
 4. Monsanto Co
 5. Game No. 3
 6. Humphreys (Douglas)
 7. Hemphill TX
 8. 560.0 million cubic feet
 9. May 21, 1980
 10. Cities Service Oil Co
 1. 80-34601/01401
 2. 42-501-31552-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Denver Unit 2834
 6. Wasson
 7. Yoakum TX
 8. .0 million cubic feet
 9. May 21, 1980
 10. Shell Oil Co, Coltexo Corp
 1. 80-34602/01416
 2. 42-135-32746-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Jordan Univ Unit 440
 6. Jordan
 7. Ector TX
 8. 4.0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34603/01417
 2. 42-135-32747-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Jordan Univ Unit 536
 6. Jordan
 7. Ector TX
 8. .5 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34604/01418
 2. 42-461-31239-0000
 3. 103 000 000
 4. Shell Oil Co
 5. McClintic Unit 56
 6. McElroy
 7. Upton TX
 8. .8 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34605/01419
 2. 42-103-31760-0000

3. 103 000 000
 4. Shell Oil Co
 5. McClintic Unit 50
 6. McElroy
 7. Crane TX
 8. .9 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34606/01420
 2. 42-103-31759-0000
 3. 103 000 000
 4. Shell Oil Co
 5. McClintic Unit 40
 6. McElroy
 7. Crane TX
 8. .9 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34607/01421
 2. 42-103-31758-0000
 3. 103 000 000
 4. Shell Oil Co
 5. McClintic Unit 30
 6. McElroy
 7. Crane TX
 8. .9 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34608/01422
 2. 42-105-31754-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Forristal B-10
 6. Tippet (Wolfcamp Upper)
 7. Crockett TX
 8. 48.0 million cubic feet
 9. May 21, 1980
 10. Neleh Gas and Oil Co
 1. 80-34609/01423
 2. 42-475-30910-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 148
 6. Monahans (Clearfork)
 7. Ward/Winkler TX
 8. 45.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34610/01425
 2. 42-495-30534-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 150
 6. Monahans NE (Penn Detrital Up)
 7. Ward/Winkler TX
 8. 55.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34611/01426
 2. 42-475-31563-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 151
 6. Monahans (Clearfork)
 7. Ward/Winkler TX
 8. 7.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34612/01427
 2. 42-495-30871-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 152
 6. Monahans (Clearfork)
 7. Ward/Winkler TX

8. 19.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34613/01428
 2. 42-475-31609-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 153
 6. Monahans (Clearfork)
 7. Ward/Winkler TX
 8. 15.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34614/01429
 2. 42-495-30870-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 155
 6. Monahans (Clearfork)
 7. Ward/Winkler TX
 8. 7.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34615/01430
 2. 42-495-30882-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Sealy Smith Foundation 156
 6. Monahans (Clearfork)
 7. Ward/Winkler TX
 8. 13.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
 1. 80-34616/01431
 2. 42-165-31173-0000
 3. 103 000 000
 4. Shell Oil Co
 5. T O Stark 25
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 14.0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34617/01432
 2. 42-165-31172-0000
 3. 103 000 000
 4. Shell Oil Co
 5. T O Stark 24
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 8.0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34618/01433
 2. 42-165-31171-0000
 3. 103 000 000
 4. Shell Oil Co
 5. T O Stark 23
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 18 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34619/01436
 2. 42-165-30656-0000
 3. 103 000 000
 4. Shell Oil Co
 5. T O Stark 20
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 12.5 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34620/01437

2. 42-165-30619-0000
 3. 103 000 000
 4. Shell Oil Co
 5. T O Stark 19
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 10.0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34621/01438
 2. 42-165-30618-0000
 3. 103 000 000
 4. Shell Oil Co
 5. T O Stark 18
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 9.0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34622/01441
 2. 42-165-30625-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Newbern 7
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 7.5 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34623/01443
 2. 42-165-30627-0000
 3. 103 000 000
 4. Shell Oil Co
 5. Coltharp 3
 6. Robertson N (San Andres)
 7. Gaines TX
 8. 11.0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34624/01580
 2. 42-165-30646-0000
 3. 102 000 000
 4. Paraffine Oil Corp
 5. P H Welder B No 1C
 6. Heyser SE (6250)
 7. Calhoun TX
 8. 44.0 million cubic feet
 9. May 21, 1980
 10.
 1. 80-34625/01651
 2. 42-089-00000-0000
 3. 102 103 000
 4. Everest Exploration Co
 5. Lehrer No 1
 6. Garwood West (Wilcox A) Field
 7. Colorado TX
 8. 400.0 million cubic feet
 9. May 21, 1980
 10. Hydrocarbon Gathering Inc
 1. 80-34626/01710
 2. 42-427-04203-0000
 3. 108 000 000
 4. Dinero Oil Co
 5. Febronio Flores #1
 6. Sullivan City
 7. Starr TX
 8. 5.8 million cubic feet
 9. May 21, 1980
 10. Tennessee Gas Pipeline Co
 1. 80-34627/03505
 2. 42-233-00000-0000
 3. 108 000 000
 4. Rogatz & Glass
 5. Gulf Whittenburg D #1
 6. Panhandle-Hutchinson

7. Hutchinson TX
 8. .0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34628/03067
 2. 42-311-30929-0000
 3. 103 000 000
 4. Texas Oil & Gas Corp
 5. Mary Ada Stischer #1
 6. Roos (Wilcox 8100)
 7. McMullen
 8. 121.0 million cubic feet
 9. May 21, 1980
 10. Texas Eastern Transmission Corp
 1. 80-34629/03055
 2. 42-357-30851-0000
 3. 103 000 000
 4. Courson Oil & Gas Inc
 5. Leatherman #1-748U
 6. Dude Wilson (Cleveland)
 7. Ochiltree TX
 8. 150.0 million cubic feet
 9. May 21, 1980
 10. Northern Natural Gas Co
 1. 80-34630/03054
 2. 42-357-30851-0000
 3. 103 000 000
 4. Courson Oil & Gas Inc
 5. Leatherman #1-748L (Upper Morrow)
 6. Dude Wilson
 7. Ochiltree TX
 8. 50.0 million cubic feet
 9. May 21, 1980
 10. Northern Natural Gas Co
 1. 80-34631/02817
 2. 42-033-30472-0000
 3. 103 000 000
 4. Gulf Oil Corp
 5. Canon Ranch Unit No 1121
 6. 30-Mill (Spraberry)
 7. Borden TX
 8. 3.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
 1. 80-34632/02166
 2. 42-393-30607-0000
 3. 103 000 000
 4. J M Huber Corp
 5. Coffee Estate No 2
 6. Shreikay (Morrow)
 7. Roberts TX
 8. 850.0 million cubic feet
 9. May 21, 1980
 10. Transwestern Pipeline Co
 1. 80-34633/02095
 2. 42-165-31276-0000
 3. 103 000 000
 4. Alamo Petroleum Co
 5. John J Kain No 1
 6. Homann (Yates)
 7. Gaines TX
 8. 55.0 million cubic feet
 9. May 21, 1980
 10. Northern Natural Gas Co
 1. 80-34634/01948
 2. 42-401-30669-0000
 3. 103 000 000
 4. Mewbourne Oil Co
 5. Roper #3
 6. Henderson E (Travis Peak)
 7. Rusk TX
 8. 1.0 million cubic feet
 9. May 21, 1980
 10. United Gas Pipe Line Co
 1. 80-34635/01920

2. 42-239-31159-0000
 3. 102 103 000
 4. Vanderbilt Resources Corp
 5. Stormont No 1
 6. Long Branch (Frio 4400)
 7. Jackson TX
 8. 180.0 million cubic feet
 9. May 21, 1980
 10. Tennessee Gas Pipeline Co
 1. 80-34636/01863
 2. 42-105-00000-0000
 3. 103 000 000
 4. Delta Drilling Co
 5. Kincaid 8
 6. Ozona (Canyon)
 7. Crockett TX
 8. 213.0 million cubic feet
 9. May 21, 1980
 10. Northern Natural Gas Co
 1. 80-34637/03506
 2. 42-233-00000-0000
 3. 108 000 000
 4. Rogatz & Glass
 5. Gulf Whittenburg D #2
 6. Panhandle-Hutchinson
 7. Hutchinson TX
 8. .0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34638/03507
 2. 42-233-00000-0000
 3. 108 000 000
 4. Rogatz & Glass
 5. Gulf Whittenburg D #5
 6. Panhandle-Hutchinson
 7. Hutchinson TX
 8. .0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34639/03511
 2. 42-233-00000-0000
 3. 108 000 000
 4. Rogatz & Glass
 5. J J Perkins #1
 6. Panhandle-Hutchinson
 7. Hutchinson TX
 8. .0 million cubic feet
 9. May 21, 1980
 10. Phillips Petroleum Co
 1. 80-34640/03605
 2. 42-285-31263-0000
 3. 102 000 000
 4. Davis Oil Co
 5. Pat Hermes 1-U
 6. Lavaca River (1700)
 7. Lavaca TX
 8. 70.0 million cubic feet
 9. May 21, 1980
 10. Texas Eastern Transmission Corp
 1. 80-34641/03923
 2. 42-185-30063-0000
 3. 102 000 000
 4. Cashco Energy Corp
 5. Louis Shirley No 1
 6. Hill (Georgetown)
 7. Grimes County TX
 8. 109.0 million cubic feet
 9. May 21, 1980
 10.
 1. 80-34642/04037
 2. 42-497-00000-0000
 3. 108 000 000
 4. Mitchell Energy Corp
 5. G W Ramsey #1
 6. Boonsville (Atoka Cong 5085)

7. Wise TX
8. 11.6 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34643/04039
2. 42-367-30415-0000
3. 108 000 000
4. Mitchell Energy Corp
5. H W Parks #2
6. Boonsville Bend Cong
7. Parker TX
8. 19.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34644/04043
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Clifford Taylor #2
6. Boonsville Bend Cong
7. Wise TX
8. 15.3 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34645/04051
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. R L Morris B #2
6. Boonsville Bend Cong
7. Jack TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34646/04057
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. L E Boley #4
6. Boonsville Bend Cong
7. Jack TX
8. 1.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34647/04060
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Bud Bailey #1
6. Boonsville Bend Cong
7. Wise TX
8. 13.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34648/04063
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Roy Womack #1
6. Boonsville Bend Cong
7. Wise, TX
8. 18.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co. of America
1. 80-34649/04109
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. H J Deavers #2
6. Boonsville Bend Cong
7. Wise, TX
8. 14.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34650/04120
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Gilbert Shawn #4
6. Boonsville Bend Cong
7. Wise, TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34652/04136
2. 42-497-00000-0000
4. Mitchell Energy Corp
5. G C Busey #2
6. Boonsville Bend Cong
7. Wise, TX
8. 17.4 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34653/04140
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. H V Hough #1
6. Boonsville Bend Cong
7. Wise, TX
8. 14.5 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34654/04156
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M M Austin #1
6. Boonsville Bend Cong
7. Wise, TX
8. 20.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34655/04183
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J D Karnes #5
6. Boonsville Bend Cong
7. Wise, TX
8. 1.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34656/04188
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J O Wilson #1
6. Boonsville Bend Cong
7. Wise, TX
8. 7.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34657/04207
2. 42-033-00000-0000
3. 103 000 000
4. Texaco Inc
5. Jo Mill Unit No 3541
6. Jo Mill (Spraberry)
7. Borden, TX
8. 21.6 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34658/04224
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Paul Curtner #3
6. Boonsville Bend Cong
7. Wise, TX
8. 9.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34659/04225
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Keeling-Daly Unit #1
6. Boonsville Bend Cong
7. Wise, TX
8. 10.5 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34660/04226
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Yale Griffis #1
6. Boonsville Bend Cong
7. Jack, TX
8. 14.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34661/04251
2. 42-497-30097-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M Greines #2
6. Boonsville Bend Cong
7. Wise, TX
8. 16.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34662/04248
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Kelly-Clark Unit #1
6. Boonsville Bend Cong
7. Wise, TX
8. 5.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34663/04246
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Bilberry-McClure-B-#5
6. Boonsville Consol Cong
7. Wise, TX
8. 15.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34664/04245
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M J Klein-A-#2
6. Boonsville Bend Cong
7. Wise, TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34665/04236

2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Ft Bend-Caswell #1
6. Alvord (Atoka Congl)
7. Wise, TX
8. 6.2 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34666/04235
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. T J Tinney B #1
6. Alvord (Atoka Congl)
7. Wise, TX
8. 15.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34667/04232
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Daly-Alderson #1
6. Boonsville Bend Cong
7. Wise, TX
8. 2.1 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34668/04228
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. J D Karnes et al #1
6. Boonsville Bend Cong
7. Wise, TX
8. 15.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34669/04263
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. M F Gerber #1
7. Wise, TX
8. 20.4 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34670/04326
2. 42-165-00000-0000
3. 103 000 000
4. Texaco Inc
5. L R Wood No 6
6. Robertson North (San Andres)
7. Gaines, TX
8. 26.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34671/04344
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Sally E Tully #1
6. Boonsville Bend Cong
7. Wise, TX
8. 12.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34672/04346
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Oran Speer #1
6. Boonsville Bend Cong
7. Wise, TX
8. 10.7 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34673/04381
2. 42-135-00000-0000
3. 103 000 000
4. Texaco Inc
5. West Jordan Unit No 14-19
6. Jordan
7. Ector, TX
8. 17.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34674/04685
2. 42-237-32102-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. A D Shawver
6. Perrin East (5400 Congl)
7. Jack County, TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34675/04693
2. 42-237-32101-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. Gonce #1
6. Perrin East (5400 Conglomerate)
7. Jack, TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34676/04796
2. 42-237-31930-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. Thacker
6. Perrin East (Atoka Congl 4800)
7. Jack County, TX
8. 185.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34677/04797
2. 42-503-31978-0000
3. 103 000 000
4. Whitehead Production Co Inc
5. C B Hockaday
6. Young County Regular (Gas)
7. Young County, TX
8. 36.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34678/04968
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Annie Hamilton #4
6. Boonsville Bend Cong
7. Wise TX
8. 19.8 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34679/04972
2. 42-367-30038-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W L Collins #1
6. Toto (Caddo Conglomerate)
7. Parker TX
8. 20.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34680/04977
2. 42-233-00000-0000
3. 108 000 000
4. J M Huber Corp
5. Carver A No 2
6. Panhandle West
7. Hutchinson TX
8. 16.3 million cubic feet
9. May 21, 1980
10. Colorado Interstate Gas Co
1. 80-34681/04989
2. 42-211-00000-0000
3. 108 000 000
4. Diamond Shamrock Corp
5. Frass No 2-107-U
6. Canadian Northwest
7. Hemphill TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34682/05064
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. S F Peek #2
6. Boonsville Bend Cong
7. Wise TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34683/05072
2. 42-497-30304-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Florence Currie #1
6. Boonsville Bend Conglomerate
7. Wise TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34684/05076
2. 42-285-30062-0000
3. 108 000 000
4. Mitchell Energy Corp
5. W W Allen #2
6. Provident City (Yegua 5750)
7. Lavaca TX
8. 1.5 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34685/05078
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Charlie Lambert #1
6. Boonsville Bend Conglomerate
7. Wise TX
8. 15.2 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34686/05085
2. 42-237-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Morris-Kempner #6
6. Boonsville Bend Cong
7. Jack TX
8. 17.9 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34687/05089
2. 42-497-30052-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Adele Clough #3
6. Boonsville Bend Cong

7. Wise TX
8. 17.6 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34688/05096
2. 42-497-00000-0000
3. 108 000 000
4. Mitchell Energy Corp
5. Donaldson-Smith #1
6. Boonsville Bend Conglomerate
7. Wise TX
8. .0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34689/05504
2. 42-065-00000-0000
3. 108 000 000
4. J M Huber Corp
5. Deahl A No 1
6. Panhandle West
7. Carson TX
8. 17.6 million cubic feet
9. May 21, 1980
10. Colorado Interstate Gas Co
1. 80-34690/05627
2. 42-195-00000-0000
3. 108 000 000
4. Danden Petroleum Inc
5. Eva Holt #1
6. Texas Hugoton
7. Hansford TX
8. 15.6 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34691/05731
2. 42-179-00000-0000
3. 108 000 000
4. W L Bruce Co Operator
5. Walberg #1
6. Panhandle
7. Gray TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34692/06323
2. 42-419-30273-0000
3. 103 000 000
4. Arkla Exploration Co
5. Case #1
6. Stockman (Travis Peak)
7. Shelby TX
8. 37.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co
1. 80-34693/06114
2. 42-393-30273-0000
3. 103 000 000
4. Sun Oil Co (Delaware)
5. Parsell Estate No 7-L
6. Parsell
7. Roberts TX
8. 647.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80-34694/06496
2. 42-285-31278-0000
3. 103 000 000
4. F B Lacy
5. Brushy Creek Unit 1
6. Brushy Creek (4800)
7. Lavaca TX
8. 300.0 million cubic feet
9. May 21, 1980
10. Texas Eastern Transmission Corp
1. 80-34695/06508
2. 42-079-30511-0000
3. 103 000 000
4. Union Texas Petroleum
5. NW Slaughter Unit #66
6. Slaughter League 57
7. Cochran TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Amoco Production Co
1. 80-34696/06720
2. 42-413-30724-0000
3. 103 000 000
4. Ike Lovelady Inc
5. Virgil J Powell No 1-T
6. Tillery (Strawn)
7. Schleicher TX
8. 100.0 million cubic feet
9. May 21, 1980
10. Atlantic Richfield Co
1. 80-34697/06968
2. 42-103-31807-0000
3. 103 000 000
4. Shell Oil Co
5. North Cross (Dev) Unit 28
6. Crossett (Devonian)
7. Crane TX
8. 160.0 million cubic feet
9. May 21, 1980
10. Shell Oil Co
1. 80-34698/06987
2. 42-089-30933-0000
3. 103 000 000
4. Shell Oil Co
5. Sheridan Gas Unit No 77
6. Sheridan (Wilcox)
7. Colorado TX
8. 180.0 million cubic feet
9. May 21, 1980
10. National Fuel Gas Supply Corp; Houston P L Co
1. 80-34699/06988
2. 42-089-30874-0000
3. 103 000 000
4. Shell Oil Co
5. Sheridan Gas Unit No 74
6. Sheridan (Wilcox)
7. Colorado TX
8. 511.0 million cubic feet
9. May 21, 1980
10. National Fuel Gas Supply Corp; Houston P L Co
1. 80-34700/07038
2. 42-273-31167-0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #131
6. Stratton (K-33)
7. Nueces TX
8. 189.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80-34701/07039
2. 42-273-00000-0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #130
6. Stratton (Zone F-16-3)
7. Nueces TX
8. .0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80-34702/07044
2. 42-365-30773-0000
3. 103 000 000
4. Champlin Petroleum Co
5. Carthage Gas Unit 13 #3
6. Carthage (Cotton Valley)
7. Panola TX
8. 670.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34703/07047
2. 42-355-00000-0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #132
6. Stratton (M-12) Now (L-5)
7. Nueces TX
8. 374.4 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80-34704/07049
2. 42-273-31248-0000
3. 103 000 000
4. Champlin Petroleum Co
5. Wardner G P #134
6. Stratton (8660)
7. Nueces TX
8. 49.4 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co; Columbia Gas Trans Co
1. 80-34705/07053
2. 42-365-30596-0000
3. 103 000 000
4. Champlin Petroleum Co
5. Carthage Gas Unit 11 #4
6. Carthage (Cotton Valley)
7. Panola TX
8. 770.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34706/07150
2. 42-123-00000-0000
3. 102 000 000
4. Murphy H Baxter
5. Crain G/U No 2 Well No 2
6. Upper Meyersville (Wilcox 8000)
7. Dewitt TX
8. 365.0 million cubic feet
9. May 21, 1980
10. United Texas Transmission Co
1. 80-34707/07151
2. 42-123-30781-0000
3. 102 000 000
4. Murphy H Baxter
5. Crain G/U No 1 Well No 1
6. Upper Meyersville (Wilcox 8000)
7. Dewitt TX
8. 511.0 million cubic feet
9. May 21, 1980
10. United Texas Transmission Co
1. 80-34708/07268
2. 42-501-31547-0000
3. 103 000 000
4. Tenneco Oil Co
5. Prentice Clearfork (6700) Unit #111
6. Prentice (6700)
7. Yoakum TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Amoco Production Co
1. 80-34709/07299
2. 42-501-31546-0000
3. 103 000 000
4. Tenneco Oil Co
5. Prentice Clearfork (6700) Unit #1117

6. Prentice Clearfork (6700)
7. Yoakum TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Amoco Production Co
1. 80-34710/07312
2. 42-355-00000-0000
3. 102 000 000
4. Getty Oil Co
5. TST 445 No 1-L
6. Redfish Bay (Zone 43)
7. Nueces TX
8. 175.0 million cubic feet
9. May 21, 1980
10. United Gas Pipeline
1. 80-34711/07313
2. 42-355-00000-0000
3. 102 000 000
4. Getty Oil Co
5. TST 444 No 1
6. Redfish Bay (Zone 43)
7. Nueces TX
8. 216.0 million cubic feet
9. May 21, 1980
10. United Gas Pipeline
1. 80-34712/07418
2. 42-363-00000-0000
3. 108 000 000
4. L&M Oil Co
5. J J Green B
6. Palo Pinto County Reg Gas
7. Palo Pinto TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34713/07442
2. 42-417-32531-0000
3. 103 000 000
4. Enserch Exploration Inc
5. A L Black No 3
6. Chastain (Lake)
7. Shackelford TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34714/07443
2. 42-197-30274-0000
3. 103 000 000
4. Enserch Exploration Inc
5. Gene Gilliam No 1
6. Rig Dog (Mississippian)
7. Hardeman TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Shell Oil Co
1. 80-34715/07592
2. 42-249-30568-0000
3. 103 000 000
4. Grace Petroleum Corp
5. Stelzig-Zwerneman #6
6. Amargosa
7. Jim Wells TX
8. 110.0 million cubic feet
9. May 21, 1980
10. Natural Gas Pipeline Co of America
1. 80-34716/07620
2. 42-413-30598-0000
3. 103 000 000
4. Gas Development Corp
5. Clovis Olsak 105 Well No 1
6. Eldorado South (Canyon)
7. Schleicher TX
8. 219.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34717/07628
2. 42-327-30295-0000
3. 108 000 000
4. Tahoe Oil & Cattle Co
5. Wilhelm-Lone Wolf No 1
6. Dodson S W (Goen Lime)
7. Menard TX
8. 7.9 million cubic feet
9. May 21, 1980
10. Sun Gas Co
1. 80-34718/07630
2. 42-127-31662-0000
3. 102 000 000
4. I W Lovelady
5. John Strait Gas Unit No 1
6. Strait (Georgetown) Field
7. Dimmit TX
8. 900.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34719/07634
2. 42-435-00000-0000
3. 108 000 000
4. Omar Operating Company
5. Wilson 3-C & 3-T
6. Canyon Sand (Strawn Lime)
7. Sutton TX
8. 8.8 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34720/07648
2. 42-039-31242-0000
3. 102 000 000
4. The Anschutz Corp
5. James R Geissen No 1
6. Danbury SW (12400-B)
7. Brazoria TX
8. 360.0 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80-34721/07647
2. 42-039-30787-0000
3. 102 000 000
4. The Anschutz Corp
5. H L Peterson No 1
6. Danbury SW (Lower Frio 12550)
7. Brazoria TX
8. 146.0 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80-34722/07648
2. 42-039-31256-0000
3. 102 000 000
4. The Anschutz Corp
5. James R Marmion No 1
6. Danbury SW (12100-A)
7. Brazoria TX
8. 186.5 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80-34723/07649
2. 42-039-31273-0000
3. 102 000 000
4. The Anschutz Corp
5. H W Geissen No 1-B
6. Danbury SW (13650-H)
7. Brazoria TX
8. 125.0 million cubic feet
9. May 21, 1980
10. Dow Chemical Co Natural Gas Pl Co of Amer
1. 80-34724/07673
2. 42-131-39020-0000
3. 103 000 000
4. Hewitt B Fox Inc
5. #2-T Barrera-Leach #2-1
6. Sejita East (1900)
7. Duval TX
8. 73.0 million cubic feet
9. May 21, 1980
10. Valley Gas Transmission Inc
1. 80-34725/07759
2. 42-365-00000-0000
3. 103 000 000
4. Delta Drilling Co
5. Harold Wilson #2
6. Carthage (Cotton Valley)
7. Panola County TX
8. 124.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co
1. 80-34726/07927
2. 42-105-31092-0000
3. 103 000 000
4. H&W Enterprises
5. University 9 No 4
6. Farmer (San Andres)
7. Crockett TX
8. 4.5 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34727/07928
2. 42-105-31093-0000
3. 103 000 000
4. H&W Enterprises
5. University 9 No 3
6. Farmer (San Andres)
7. Crockett TX
8. 5.1 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34728/07934
2. 42-105-31713-0000
3. 103 000 000
4. H&W Enterprises
5. University 12-B #1
6. Farmer (San Andres)
7. Crockett TX
8. 4.6 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34729/07935
2. 42-105-31618-0000
3. 103 000 000
4. H&W Enterprises
5. University 9-A #4
6. Farmer (San Andres)
7. Crockett TX
8. 8.8 million cubic feet ---
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34730/07936
2. 42-105-31616-0000
3. 103 000 000
4. H&W Enterprises
5. University 9-A #2
6. Farmer (San Andres)
7. Crockett TX
8. 8.1 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34731/07937
2. 42-105-31617-0000
3. 103 000 000
4. H&W Enterprises
5. University 9-A #3
6. Farmer (San Andres)

7. Crockett TX
8. 6.7 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34732/07978
2. 42-401-30643-0000
3. 102 000 000
4. Amoco Production Co
5. E E Beckworth No 1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 887.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34733/08072
2. 42-203-30496-0000
3. 102 000 000
4. Amoco Production Co
5. Bradshaw CM Gas Unit 001
6. Blocker (Cotton Valley)
7. Harrison TX
8. 106.9 million cubic feet
9. May 21, 1980
10. Delhi Gas Pipeline Corp
1. 80-34734/08071
2. 42-401-30625-0000
3. 102 000 000
4. Amoco Production Co
5. Joe S Kinsey Gas Unit No 1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 342.7 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34735/08066
2. 42-401-30597-0000
3. 102 000 000
4. Amoco Production Co
5. Michael Kangerga No 1
6. Dirgin (Cotton Valley)
7. Rusk TX
8. 310.7 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34736/08063
2. 42-401-30641-0000
3. 102-000-000
4. Amoco Production Co
5. Felix W Jenkins No 1
6. Dirgin (Cotton Valley)
7. Rusk, TX
8. 299.3 million cubic feet
9. May 21, 1980
10. Hydrocarbons Transfer Inc
1. 80-34737/08059
2. 42-401-30576-0000
3. 102-000-000
4. Amoco Production Co
5. Hair Gas Unit No 1
6. Dirgin (Cotton Valley)
7. Rusk, TX
8. 427.0 million cubic feet
9. May 21, 1980
10. Hydrocarbons Transfer Inc
1. 80-34738/08037
2. 42-211-00000-0000
3. 103-000-000
4. Amoco Production Co
5. George 1-11
6. Buffalo Wallow
7. Hemphill, TX
8. 110.0 million cubic feet
9. May 21, 1980
10. Pioneer Natural Gas Co
1. 80-34739/08000
2. 42-321-40842-0000
3. 103-000-000
4. Amoco Production Co
5. J E Thompson No 10
6. Lucky (Thompson 10100)
7. Matagorda, TX
8. 50.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34740/08029
2. 42-401-30683-0000
3. 102-000-000
4. Amoco Production Co
5. G Wallace Gas Unit No 1
6. Dirgin (Cotton Valley)
7. Rusk, TX
8. 186.9 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34741/08713
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Burnett I #3
6. Panhandle
7. Hutchinson, TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34742/08712
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Burnett I #4
6. Panhandle
7. Hutchinson, TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34743/08711
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Burnett I #5
6. Panhandle
7. Hutchinson, TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34744/08710
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Burnett I #6
6. Panhandle
7. Hutchinson, TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34745/08709
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Burnett I #7
6. Panhandle
7. Hutchinson, TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34746/08708
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. McCarty #1
6. Panhandle
7. Hutchinson, TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34747/08707
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. McCarty #2
6. Panhandle
7. Hutchinson, TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34748/08705
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. McCarty #5
6. Panhandle
7. Hutchinson, TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34749/08704
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. McCarty #6
6. Panhandle
7. Hutchinson, TX
8. 13.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34750/10008703
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. McCarty #7
6. Panhandle
7. Hutchinson, TX
8. 13.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34751/08695
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Whittenburg YA #6
6. Panhandle
7. Hutchinson, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34752/08694
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Whittenburg YA #8
6. Panhandle
7. Hutchinson, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34753/08693
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Whittenburg YA #9
6. Panhandle
7. Hutchinson, TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34754/08692

2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Whittenburg YA #11
6. Panhandle
7. Hutchinson, TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34755/08691
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Whittenburg YA #13
6. Panhandle
7. Hutchinson, TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34756/08686
2. 42-233-00000-0000
3. 108-000-000
4. Detra Producing Co
5. Whittenburg R #4
6. Panhandle
7. Hutchinson, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34757/08628
2. 42-497-31082-0000
3. 103-000-000
4. Atapco
5. East Unit #4-4
6. Alvord South (Caddo Conglomerate)
7. Wise, TX
8. 1.2 million cubic feet
9. May 21, 1980
10. Mitchell Energy
1. 80-34758/08623
2. 42-211-30981-0000
3. 103-000-000
4. American Public Energy Co
5. Lockhart No 1
6. Feldman (Morrow Lower)
7. Hemphill County, TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80-34759/08614
2. 42-413-30610-0000
3. 103-000-000
4. Tom Brown Inc
5. Bray No 1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 19.2 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34760/08613
2. 42-413-30612-0000
3. 103-000-000
4. Tom Brown Inc
5. Fault No 1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 32.4 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34761/08609
2. 42-413-30581-0000
3. 103-000-000
4. Tom Brown Inc
5. Carlene Keel No 3
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 26.3 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34762/08607
2. 42-413-30631-0000
3. 103-000-000
4. Tom Brown Inc
5. Mary Coupe No 4
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 133.9 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34763/08604
2. 42-413-30614-0000
3. 103-000-000
4. Tom Brown Inc
5. Parker Foods A No 1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34764/08602
2. 42-413-30363-0000
3. 103-000-000
4. Tom Brown Inc
5. Frank Valis No 1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 5.4 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34765/08249
2. 42-383-00000-0000
3. 103-000-000
4. Brotherton Production Co
5. University 17-1
6. Amigo (San Andres)
7. Reagan County, TX
8. .0 million cubic feet
9. May 21, 1980
10. Big Lake Gas Corp
1. 80-34766/08281
2. 42-227-31635-0000
3. 103 000 000
4. Cola Petroleum Inc
5. Devaney No 1
6. Coahoma N (Fussell)
7. Howard, TX
8. 25.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34767/08282
2. 42-115-31193-0000
3. 103 000 000
4. Cola Petroleum Inc
5. Bowlin No 1
6. Ackerly (Dean Sand)
7. Dawson, TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Texaco Inc
1. 80-34768/08318
2. 42-003-00000-0000
3. 103 000 000
4. Friemel & Carpenter
5. W T Ford No 7
6. Fuhrman-Mascho
7. Andrews, TX
8. 10.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34769/08319
2. 42-003-00000-0000
3. 103 000 000
4. Friemel & Carpenter
5. W T Ford No 5
6. Fuhrman-Mascho (Grbg San Andres)
7. Andrews, TX
8. 129.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34770/08320
2. 42-003-00000-0000
3. 103 000 000
4. Friemel & Carpenter
5. W T Ford No 6
6. Fuhrman-Mascho
7. Andrews, TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34771/08388
2. 42-365-00000-0000
3. 103 000 000
4. McCormick Oil & Gas Corp
5. W B Weiner et al D-1
6. Carthage (Cotton Valley)
7. Panola, TX
8. 289.0 million cubic feet
9. May 21, 1980
10. United Gas Pipeline Co
1. 80-34772/08431
2. 42-365-30626-0000
3. 103 000 000
4. Remuda Oil & Gas Co
5. Briggs Gas Unit No 1
6. Beckville North (Cotton Valley)
7. Panola, TX
8. .0 million cubic feet
9. May 21, 1980
10. Arkansas-Louisiana Gas Co
1. 80-34773/08434
2. 42-195-30614-0000
3. 103 000 000
4. Ricks Exploration Co
5. Clawson #26-A
- 6.
7. Hansford, TX
8. 300.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34774/08438
2. 42-413-30736-0000
3. 103 000 000
4. Saxon Oil Co
5. Odgen #1
6. Henry Speck
7. Schleicher County, TX
8. 90.0 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34775/08445
2. 42-383-31299-0000
3. 103 000 000
4. Saxon Oil Co
5. University 15-10 #1
6. Spraberry (Trend Area)
7. Reagan County, TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34776/08525
2. 42-135-32978-0000
3. 103 000 000
4. Wayman W Buchanan
5. E F Cowden G No 2
6. Foster

7. Ector, TX
8. 29.2 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34777/08527
2. 42-135-33064-0000
3. 103 000 000
4. Wayman W Buchanan
5. E F Cowden G No 3
6. Foster
7. Ector, TX
8. 21.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34778/08549
2. 42-355-31176-0000
3. 108 000 000
4. Huisache Operating Co
5. A C Gandy #1
6. Minnie Bock (5400)
7. Nueces, TX
8. 20.1 million cubic feet
9. May 21, 1980
10. Channel Industries
1. 80-34779/08568
2. 42-135-32826-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden 28 No 1
6. Cowden South
7. Ector, TX
8. 43.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34780/08569
2. 42-135-33083-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden C No 3
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34781/08570
2. 42-135-33054-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden C No 2
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34782/08571
2. 42-135-32833-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden Co No 1
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34783/08573
2. 42-135-32849-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden C No 1
6. Cowden South
7. Ector, TX
8. 23.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34784/08574
2. 42-135-33077-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden No 5
6. Cowden South
7. Ector, TX
8. 67.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34785/08578
2. 42-135-32117-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden A No 2
6. Cowden South
7. Ector, TX
8. 153.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34786/08585
2. 42-165-31175-0000
3. 103 000 000
4. Samedan Oil Corp
5. M A Moore #11
6. Robertson (SA)
7. Gaines, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34787/08597
2. 42-413-30635-0000
3. 103 000 000
4. Tom Brown Inc
5. Enoch No 2
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 91.2 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34788/08598
2. 42-413-30620-0000
3. 103 000 000
4. Tom Brown Inc
5. Bush Thompson #1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 25.5 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34789/08600
2. 42-413-30432-0000
3. 103 000 000
4. Tom Brown Inc
5. Valis A No 2
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 6.5 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34790/08601
2. 42-413-30366-0000
3. 103 000 000
4. Tom Brown Inc
5. Valis A No 1
6. Henry Speck (Canyon)
7. Schleicher, TX
8. 19.3 million cubic feet
9. May 21, 1980
10. Producers Gas Co
1. 80-34791/10464
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #5
6. Panhandle
7. Gray, TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34792/10465
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #6
6. Panhandle
7. Gray, TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34793/10466
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #6
6. Panhandle
7. Gray, TX
8. 2.2 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34794/10467
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #1
6. Panhandle
7. Gray, TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34795/10468
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #3
6. Panhandle
7. Gray, TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34796/10469
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #4
6. Panhandle
7. Gray, TX
8. 2.2 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34797/10470
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley #5
6. Panhandle
7. Gray, TX
8. 2.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34798/10474
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #1
6. Panhandle
7. Gray, TX
8. 2.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34799/10475

2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #2
6. Panhandle
7. Gray TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34800/10477
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bernice #4
6. Panhandle
7. Gray TX
8. 2.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34801/10481
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #2
6. Panhandle
7. Gray TX
8. 0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34802/10482
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #4
6. Panhandle
7. Gray TX
8. 0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34803/10483
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #8
6. Panhandle
7. Gray TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Coltexo Corp
1. 80-34804/10484
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #3
6. Panhandle
7. Gray TX
8. 2.5 million cubic feet
9. May 21, 1980
10. Coltexo Corp
1. 80-34805/10485
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #4
6. Panhandle
7. Gray TX
8. 1.1 million cubic feet
9. May 21, 1980
10. Coltexo Corp
1. 80-34806/10486
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Bruce Bull #7
6. Panhandle

7. Gray TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Coltexo Corp
1. 80-34807/10491
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #5
6. Panhandle
7. Gray TX
8. 0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34808/10492
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #6
6. Panhandle
7. Gray TX
8. 0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34809/10493
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #7
6. Panhandle
7. Gray TX
8. 0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34810/10494
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Haile #8
6. Panhandle
7. Gray TX
8. 0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34811/10506
2. 42-233-00000-0000
3. 108 000 000
4. G C Herrmann Co
5. Whittenburg #2
6. Panhandle
7. Hutchinson TX
8. 1.8 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34812/10508
2. 42-233-00000-0000
3. 108 000 000
4. G C Herrmann Co
5. Whittenburg #5
6. Panhandle
7. Hutchinson TX
8. 2.9 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34813/10778
2. 42-383-31327-0000
3. 103 000 000
4. Energy Reserves Group Inc
5. Rupert P Ricker Co #6
6. Calvin Fields (Dean) (Spraberry)
7. Reagan TX
8. 72.0 million cubic feet
9. May 21, 1980
10. Union Texas Petroleum
1. 80-34814/10838

2. 42-195-30625-0000
3. 103 000 000
4. Horizon Oil & Gas Co of Texas
5. Cubine-Parker 1-71
6. Hansford Middle Morrow
7. Hansford TX
8. 600.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34815/10841
2. 42-429-00000-0000
3. 103 000 000
4. George S Galbraith
5. Four J Cattle Co #2
6. Four J (Duffer up)
7. Stephens TX
8. 36.0 million cubic feet
9. May 21, 1980
10. Warren Petroleum Co
1. 80-34816/10843
2. 42-131-33106-0000
3. 103 000 000
4. Tampa Cove Investments Inc
5. J D Vaello
6. Proposed Vaello (Cole)
7. Duval TX
8. 950.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80-34817/10844
2. 42-105-32118-0000
3. 102 000 000
4. Harrison Interests Ltd
5. University Land 29-30 #7
6. Howards Creek (Canyon)
7. Crockett TX
8. 64.0 million cubic feet
9. May 21, 1980
10.
1. 80-34818/10845
2. 42-105-32156-0000
3. 102 000 000
4. Dan J Harrison Jr
5. University Land 17-33 #10
6. Howards Creek (Canyon)
7. Crockett TX
8. 110.0 million cubic feet
9. May 21, 1980
10.
1. 80-34819/10869
2. 42-365-30648-0000
3. 103 000 000
4. McCormick Oil & Gas Corp
5. V Adams Gas Unit #1
6. Carthage (Lower Pettit)
7. Panola TX
8. 135.0 million cubic feet
9. May 21, 1980
10. Arkansas Louisiana Gas Co
1. 80-34820/10877
2. 42-179-00000-0000
3. 108 000 000
4. Pipeline Services Inc
5. Colebank #1
6. East Panhandle
7. Gray TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34821/10891
2. 42-079-00000-0000
3. 103 000 000
4. United Co
5. Marty Wright #42
6. Levelland (San Andres)

7. Cochran TX
8. .0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34822/10975
2. 42-341-30537-0000
3. 103 000 000
4. Diamond Shamrock Corp
5. Garland McKee No 3
6. Panhandle West
7. Moore TX
8. 100.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co Panhandle Eastern Pipeline Co
1. 80-34823/10996
2. 42-283-30651-0000
3. 102 000 000
4. W M Null
5. C N Cooke A No 1
6. Cooke (Wilcox 5130 West)
7. LaSalle TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80-34824/10998
2. 42-135-33086-0000
3. 103 000 000
4. Petroleum Technical Services Co
5. E F Cowden 32 No 1
6. Cowden South
7. Ector TX
8. 80.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34825/08714
2. 42-413-30707-0000
3. 102 000 000
4. Discovery Operating Inc
5. Bearce #1
6. JKT (Canyon)
7. Schleicher TX
8. 180.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34826/08730
2. 42-371-31945-0000
3. 103 000 000
4. Henry Petroleum Corp
5. Allar No. 1
6. Spraberry (Trend Area)
7. Martin TX
8. 11.0 million cubic feet
9. May 21, 1980
10. Adobe Oil & Gas Corp
1. 80-34827/08731
2. 42-461-31271-0000
3. 103 000 000
4. Henry Petroleum Corp
5. Cox A No. 1
6. Spraberry (Trend Area)
7. Upton TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34828/08737
2. 42-233-00000-0000
3. 108 000 000
4. Jay-Dee Producing Co
5. Turner Smith No. 1
6. Panhandle
7. Hutchinson TX
8. 15.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34829/08796
2. 42-363-00000-0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Taylor No. 3
6. Brazos East (Caddo)
7. Palo Pinto TX
8. 7.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34830/08797
2. 42-367-00000-0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Herring No. 1
6. Brazos East (Caddo)
7. Parker TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34831/08799
2. 42-363-00000-0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Taylor No. 2
6. Brazos East (Strawn) Field
7. Palo Pinto TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34832/08800
2. 42-367-00000-0000
3. 108 000 000
4. Murjo Oil & Royalty Co
5. Ladd-Carr No. 1
6. Brazos East (Strawn)
7. Parker TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34833/08898
2. 42-479-30609-0000
3. 108 000 000
4. W B Yarborough
5. Palafox No. 1-947
6. Booth Ranch (Olmos)
7. Webb TX
8. 16.4 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34834/08899
2. 42-479-30593-0000
3. 108 000 000
4. W B Yarborough
5. Palafox No. 1-42
6. Booth Ranch (Olmos)
7. Webb TX
8. 20.8 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34835/08900
2. 42-479-30643-0000
3. 108 000 000
4. W B Yarborough
5. Palafox No. 1-297
6. Booth Ranch (Olmos)
7. Webb TX
8. 7.7 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34836/08921
2. 42-287-30294-0000
3. 103 000 000
4. U S Resources Inc
5. L A Loewe No. 1
6. Giddings (Austin Chalk)
7. Lee TX
8. 60.0 million cubic feet
9. May 21, 1980
10. PGP Gas Products Inc
1. 80-34837/09013
2. 42-247-30856-0000
3. 102 000 000
4. Mormac Oil & Gas Co
5. Weil Bros Block 2 A No. 1
6. Weil (5180)
7. Jim Hogg TX
8. 365.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipeline Corp
1. 80-34838/09026
2. 42-347-30128-0000
3. 102 000 000
4. Jones-Obrien Inc
5. A M Foshee No. 1
6. Naconiche Creek (Pettit)
7. Nacogdoches TX
8. 63.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co
1. 80-34839/09079
2. 42-297-31971-0000
3. 103 000 000
4. Texas Oil & Gas Corp
5. McClelland No. 13
6. Oakville (Wilcox 7930)
7. Live Oak TX
8. 430.0 million cubic feet
9. May 21, 1980
10. Delhi Gas Pipeline Corp
1. 80-34840/09132
2. 42-003-31549-0000
3. 103 000 000
4. Exxon Corp
5. Fullerton (Clearfork) Unit No. 827
6. Fullerton (Clearfork)
7. Andrews TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34841/09135
2. 42-431-30700-0000
3. 103 000 000
4. Grand Banks Energy Co
5. Hannah B Bailey 2-A
6. Deck (Cisco)
7. Sterling TX
8. 39.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co Union Texas Petroleum
1. 80-34842/09136
2. 42-431-30701-0000
3. 103 000 000
4. Grand Banks Energy Co
5. Hannah B Bailey 1-A
6. Deck (Cisco)
7. Sterling TX
8. 44.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co Union Texas Petroleum
1. 80-34843/09213
2. 42-483-00000-0000
3. 108 000 000
4. Martha Sue Tepera
5. Richardson No. 1
6. East Panhandle
7. Wheeler TX
8. 4 million cubic feet

9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34844/09267
2. 42-215-30864-0000
3. 103 000 000
4. American Petrofina Co of Texas
5. Alex Ramey Unit No. 1 No. 5-L
6. Cano-Mexico (6600)
7. Hidalgo TX
8. 500.0 million cubic feet
9. May 21, 1980
10. South Texas Natural Gas Gath Co
1. 80-34845/09314
2. 42-087-30113-0000
3. 103 000 000
4. D D Houtchens
5. Knoll No. 1
6. East Panhandle
7. Collingsworth TX
8. 9.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34846/09349
2. 42-311-30909-0000
3. 103 000 000
4. Petrus Operating Co Inc
5. Martin No. 1
6. Dilworth (Edward Lime)
7. McMullen TX
8. 2500.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipeline Corp
1. 80-34847/09393
2. 42-165-31500-0000
3. 103 000 000
4. Exxon Corp
5. Robertson (Clfk) Unit No. 1902
6. Robertson N (Clearfork 7100)
7. Gaines TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34848/09415
2. 42-383-31253-0000
3. 103 000 000
4. Southland Royalty Co
5. University H No. 1
6. Spraberry (Trend Area)
7. Reagan TX
8. 45.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34849/09682
2. 42-441-00000-0000
3. 103 000 000
4. D A B Oil Service Inc
5. Edgar Davis C No. 1
6. Trey (Flippen)
7. Taylor TX
8. 34.7 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co Union Texas Petroleum
1. 80-34850/09685
2. 42-233-00000-0000
3. 108 000 000
4. Gulf Oil Corp
5. J A Whittenburg D No. 10
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34851/09876
2. 42-413-00000-0000
3. 108 000 000
4. Getty Oil Co
5. Angie Webster No. 1
6. Fort McKavitt
7. Schleicher TX
8. 15.0 million cubic feet
9. May 21, 1980
10. Atlantic Richfield Co
1. 80-34852/09884
2. 42-285-30725-0000
3. 102 000 000
4. Superior Oil Co
5. Monte Von Rosenberg Unit No. 1-3
6. Word N (Edwards)
7. Lavaca TX
8. 1273.0 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34853/09921
2. 42-135-00000-0000
3. 108 000 000
4. Texaco Inc
5. J D Slaton B No. 1
6. Txl (Devonian)
7. Ector TX
8. 10.6 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34854/10034
2. 42-179-00000-0000
3. 108 000 000
4. Texaco Inc
5. W W Harrah No. 13
6. Panhandle Gray
7. Gray TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Kerr McGee Corp
1. 80-34855/10287
2. 42-135-00000-0000
3. 108 000 000
4. American Petrofina Co of Texas
5. R B Cowden C No. 2
6. Goldsmith North
7. Ector TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34856/10310
2. 42-195-30600-0000
3. 103 000 000
4. Cotton Petroleum Corp
5. Whitaker No 1-T
6. Hansford (Morrow Lower)
7. Hansford TX
8. 328.5 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line Co, Panhandle Easter Pipeline Co
1. 80-34857/10412
2. 42-079-30445-0000
3. 108 000 000
4. United Co
5. Seaboard Wright #15
6. Levelland (SA)
7. Cochran TX
8. 6.3 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34858/10431
2. 42-079-00000-0000
3. 108 000 000
4. United Co
5. G G Wright #1
6. Levelland (SA)
7. Cochran TX
8. 5.5 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34859/10457
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Osborne A #1
6. Panhandle
7. Gray TX
8. 20.0 million cubic feet
9. May 21, 1980
10. Cabot Corp
1. 80-34860/10458
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley L #7
6. Panhandle
7. Gray TX
8. 3.3 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34861/10459
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley L #8
6. Panhandle
7. Gray TX
8. 2.5 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34862/10460
2. 42-179-00000-0000
3. 108 000 000
4. Dunigan Operating Co Inc
5. Worley L #11
6. Panhandle
7. Gray TX
8. 2.6 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34863/12129
2. 42-367-31573-0000
3. 103 000 000
4. Baron Co Inc
5. Zellers
6. Barnes Atoka
7. Parker County TX
8. 60.0 million cubic feet
9. May 21, 1980
10. Buckner Gas Co
1. 80-34864/12150
2. 42-505-30562-0000
3. 108 000 000
4. Gulf Oil Corp
5. J C Rathmell #1
6. Urebeno (Lobo) Field
7. Zapata TX
8. 6.1 million cubic feet
9. May 21, 1980
10. Lo Vaca Gathering Co
1. 80-34865/12197
2. 42-033-30491-0000
3. 103 000 000
4. Wes-Tex Drilling Co
5. D K Burkhardt No 1
6. Ackerly (Dean Sand)
7. Borden/Howard TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co

1. 80-34866/12235
 2. 42-131-00000-0000
 3. 108 000 000
 4. Exxon Corp
 5. E C Lundell No 1-D
 6. Lundell/Wilcox
 7. Duval TX
 8. 4.0 million cubic feet
 9. May 21, 1980
 10. Natural Gas Pipeline Co
1. 80-34867/12279
 2. 42-103-32028-0000
 3. 103 000 000
 4. Exxon Corp
 5. J B Tubb B #20-L
 6. Sand Hills (Tubb)
 7. Crane TX
 8. 44.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co, Warren Petroleum Corp
1. 80-34868/12369
 2. 42-211-00000-0000
 3. 102 000 000
 4. Cambridge & Nail
 5. Humphreys #1
 6. Twister (Douglas)
 7. Hemphill TX
 8. 360.0 million cubic feet
 9. May 21, 1980
 10. Northern Natural Gas Co
1. 80-34869/12370
 2. 42-211-30985-0000
 3. 102 000 000
 4. Cambridge & Nail
 5. Urschel #1
 6. Twister (Douglas)
 7. Hemphill TX
 8. 360.0 million cubic feet
 9. May 21, 1980
 10. Northern Natural Gas Co
1. 80-34870/12371
 2. 42-211-31024-0000
 3. 102 000 000
 4. Cambridge & Nail
 5. Urschel #2
 6. Twister (Douglas)
 7. Hemphill TX
 8. 360.0 million cubic feet
 9. May 21, 1980
 10. Cities Service Co
1. 80-34871/12384
 2. 42-461-31389-0000
 3. 102 000 000
 4. Hunt Oil Co
 5. V T Amacker 76 #2
 6. Amacker-Tippett SW (Wolfcamp)
 7. Upton TX
 8. 20.0 million cubic feet
 9. May 21, 1980
 10. El Paso Natural Gas Co
1. 80-34872/12412
 2. 42-179-00000-0000
 3. 108 000 000
 4. Gulf Oil Corp
 5. Arnold #3
 6. Panhandle Gray
 7. Gray TX
 8. 5.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34873/12649
 2. 42-065-00000-0000
 3. 108 000 000
 4. Panhandle Producing Co
5. Vida Lewis B-8
 6. Panhandle Carson County
 7. Carson TX
 8. 2.9 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34874/12864
 2. 42-409-31287-0000
 3. 103 000 000
 4. Messers Co Inc.
 5. Du Pont #1-ID (N/A)
 6. Enos Cooper (7000)
 7. San Patricio TX
 8. 180.0 million cubic feet
 9. May 21, 1980
 10. United Gas Pipe Line Co
1. 80-34875/12921
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 11-2
 6. Panhandle Gray
 7. Gray TX
 8. 4.5 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34876/12923
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 11-5
 6. Panhandle Gray
 7. Gray TX
 8. 4.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34877/12925
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 11-07
 6. Panhandle Gray
 7. Gray TX
 8. 12.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34878/12926
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 14-02
 6. Panhandle Gray
 7. Gray TX
 8. .7 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34879/12930
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 19-04
 6. Panhandle Gray
 7. Gray TX
 8. 8.0 million cubic feet
 9. May 21, 1980
 10. Cities Service Co
1. 80-34880/12947
 2. 42-233-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Whittenburg No 71
 6. Panhandle Hutchinson
 7. Hutchinson TX
 8. .3 million cubic feet
 9. May 21, 1980
10. Getty Oil Co
1. 80-34881/12986
 2. 42-233-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Turner-Whittenburg No 2
 6. Panhandle Hutchinson
 7. Hutchinson TX
 8. 6.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34882/12992
 2. 42-233-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Turner-Kent B No 15
 6. Panhandle Hutchinson
 7. Hutchinson TX
 8. 3.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34883/13001
 2. 42-233-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Turner-Kent B No 25
 6. Panhandle Hutchinson
 7. Hutchinson TX
 8. 4.8 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34884/13002
 2. 42-233-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Turner-Kent B No 26
 6. Panhandle Hutchinson
 7. Hutchinson TX
 8. 4.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34885/13007
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 5B-10
 6. Panhandle Gray
 7. Gray TX
 8. .4 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34886/13010
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 6-1
 6. Panhandle Gray
 7. Gray TX
 8. 4.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34887/13023
 2. 42-179-00000-0000
 3. 108 000 000
 4. Phillips Petroleum Co
 5. Phil-Pampa Unit No 13-04
 6. Panhandle Gray
 7. Gray TX
 8. 3.0 million cubic feet
 9. May 21, 1980
 10. Getty Oil Co
1. 80-34888/13024
 2. 42-179-00000-0000
 3. 108 000 000

4. Phillips Petroleum Co
5. Phil-Pampa Unit No 14-07
6. Panhandle Gray
7. Gray TX
8. .8 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34889/13187
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 4
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34890/13188
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 5
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34891/13189
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 10
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34892/13190
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 11
6. Panhandle Hutchinson
7. Hutchinson TX
8. 4.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34893/13191
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Haile W B No 12
6. Panhandle Hutchinson
7. Hutchinson TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34894/13194
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 70
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34895/13195
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 71
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34896/13196
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 72
6. Panhandle Hutchinson
7. Hutchinson TX
8. .9 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34897/13197
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 73
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34898/13198
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 75
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34899/13199
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 76
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34900/13200
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 78
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.6 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34901/13201
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 79
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34902/13202
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 96
6. Panhandle Hutchinson
7. Hutchinson TX
8. 5.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34903/13203
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 98
6. Panhandle Hutchinson
7. Hutchinson TX
8. 6.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34904/13204
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 81
6. Panhandle Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34905/13205
2. 42-233-00000-0000
3. 108 000 000
4. Phillips Petroleum Co
5. Cockrell Ranch No 80
6. Panhandle Hutchinson
7. Hutchinson TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34906/13240
2. 42-413-00000-0000
3. 108 000 000
4. Moran Exploration Inc
5. Whitten No 1
6. El Dorado North (Canyon A)
7. Schleicher TX
8. .1 million cubic feet
9. May 21, 1980
10. CRA Inc
1. 80-34907/13291
2. 42-179-23731-0000
3. 108 000 000
4. El Paso Natural Gas Co
5. Krouch #1
6. Panhandle West
7. Gray TX
8. 20.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34908/13313
2. 42-495-31026-0000
3. 103 000 000
4. Phillips Petroleum Co
5. F P McCabe No 50
6. Halley
7. Winkler TX
8. 76.6 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34909/13314
2. 42-495-31027-0000
3. 103 000 000
4. Phillips Petroleum Co
5. F P McCabe No 51
6. Halley
7. Winkler TX
8. 35.4 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34910/13315
2. 42-495-31028-0000
3. 103 000 000
4. Phillips Petroleum Co
5. F P McCabe No 52
6. Halley
7. Winkler TX

8. 25.2 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34911/13431
2. 42-175-30541-0000
3. 102 000 000
4. Frost Oil Co Inc
5. Desmond R Pereira No 1
6. Hordes Creek South
7. Goliad TX
8. 90.0 million cubic feet
9. May 21, 1980
10. United Gas Pipe Line
1. 80-34912/13535
2. 42-233-00000-0000
3. 108 000 000
4. M T Harmon
5. Ware Fee #10
6. Panhandle Field
7. Hutchinson TX
8. 7.4 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34913/13579
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. Montalvo I V-B-No 6
6. Sun North
7. Starr TX
8. 8.0 million cubic feet
9. May 21, 1980
- 10.
1. 80-34914/13581
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. J F Hall—State No 18-C
6. North Rincon
7. Starr TX
8. 16.0 million cubic feet
9. May 21, 1980
- 10.
1. 80-34915/13584
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Company (Delaware)
5. E Trevino—B #3
6. Kelsey South
7. Starr TX
8. 4.0 million cubic feet
9. May 21, 1980
- 10.
1. 80-34916/13585
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. Geo H Coates—State No. 3
6. North Rincon
7. Starr, TX
8. 1.0 million cubic feet
9. May 21, 1980
- 10.
1. 80-34917/13591
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. Geo H Coates N 6
6. North Rincon
7. Starr, TX
8. 8.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80-34918/13592
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Co (Delaware)
5. J W Kincaid No. 1
6. North Rincon
7. Starr, TX
8. 14.0 million cubic feet
9. May 21, 1980
- 10.
1. 80-34920/13596
2. 42-479-32276-0000
3. 102 000 000
4. Gulf Oil Corp
5. Bruni Mineral Trust A No. 6
6. Juanita
7. Webb, TX
8. 730.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34921/13597
2. 42-393-00000-0000
3. 102 000 000
4. Argonaut Energy Corp
5. Byrum No. 1 82595
6. Red Deer Creek (Granite Wash)
7. Roberts, TX
8. 12.6 million cubic feet
9. May 21, 1980
10. Michigan-Wisconsin Pipe Line Co
1. 80-34922/13609
2. 42-427-00000-0000
3. 108 000 000
4. Cities Service Co
5. Martinez B No. 32
6. Rincon N (Vicksburg 8200 Seg B)
7. Starr, TX
8. 17.0 million cubic feet
9. May 21, 1980
10. Tennessee Gas Pipeline Co
1. 80-34923/13618
2. 42-371-00000-0000
3. 108 000 000
4. MWJ Producing Co
5. Bundy No. 1
6. J K S (Tubb)
7. Pecos, TX
8. 5.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34924/13650
2. 42-285-00000-0000
3. 108 000 000
4. Petro-Lewis Corp
5. Charles Allen No. 3
6. Provident City
7. Lavaca, TX
8. 8.8 million cubic feet
9. May 21, 1980
10. Lone Star Gas Co
1. 80-34925/13654
2. 42-297-31852-0000
3. 102 000 000
4. Aminoil USA Inc
5. Aminoil USA Inc et al No. 1
6. East Chapa (9800) Field
7. Live Oak, TX
8. 11.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34926/13666
2. 42-165-00000-0000
3. 103 000 000
4. Mobil Oil Corp
5. Henry Jepson No. 1
6. Homann (San Andres)
7. Gaines, TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34927/13692
2. 42-427-00000-0000
3. 108 000 000
4. Sun Oil Co
5. J G De Garza No. 3
6. Sun North
7. Starr, TX
8. 12.0 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80-34928/13744
2. 42-179-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. Shaw No. 4
6. East Panhandle
7. Gray, TX
8. 6.6 million cubic feet
9. May 21, 1980
10. Coltexo Corp
1. 80-34929/13745
2. 42-065-00000-0000
3. 108 000 000
4. Arco Oil and Gas Co
5. J W McConnell A No. 6
6. Panhandle West
7. Carson, TX
8. 11.0 million cubic feet
9. May 21, 1980
10. Getty Oil Co
1. 80-34930/13752
2. 42-165-31595-0000
3. 103 000 000
4. Exxon Corp
5. Exxon Fee Eubanks Ba No. 11
6. Robertson N (Clearfork 7100)
7. Gaines, TX
8. 14.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34931/13759
2. 42-469-31447-0000
3. 103 000 000
4. Paraffine Oil Corp
5. Keeran No. 3
6. Keeran (6040)
7. Victoria, TX
8. 183.0 million cubic feet
9. May 21, 1980
10. Florida Gas Transmission Co
1. 80-34932/13764
2. 42-163-00000-0000
3. 108 000 000
4. Suburban Propane Gas Corp
5. George M Williams No. 4
6. West Big Foot Gas
7. Frio, TX
8. 21.1 million cubic feet
9. May 21, 1980
10. Transcontinental Gas Pipe Line Corp
1. 80-34933/13765

2. 42-105-00000-0000
3. 108 000 000
4. Suburban Propane Gas Corp
5. J W Henderson 6-1
6. Ozona Canyon Sand
7. Crockett, TX
8. 21.3 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34934/13767
2. 42-261-30493-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Erck No. 16 (U)
6. McGill (9629) Proposed
7. Kenedy, TX
8. 185.0 million cubic feet
9. May 21, 1980
10. Florida Gas Transmission
1. 80-34935/13768
2. 42-261-20493-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Erck No. 16 (L)
6. McGill (9364) Proposed
7. Kenedy, TX
8. 185.0 million cubic feet
9. May 21, 1980
10. Florida Gas Transmission
1. 80-34936/13802
2. 42-163-31682-0000
3. 103 000 000
4. Tipperary Oil and Gas Corp
5. R. K. Harlan No. 1
6. Doering Ranch (San Miguel Lo)
7. Frio, TX
8. 100.0 million cubic feet
9. May 21, 1980
10. Tejas Gas Corp
1. 80-34937/13805
2. 42-179-00000-0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #4
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co
1. 80-34938/13806
2. 42-179-00000-0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #5
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co
1. 80-34939/13807
2. 42-179-00000-0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #6
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co
1. 80-34940/13808
2. 42-179-00000-0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #7
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co
1. 80-34941/13809
2. 42-179-00000-0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #8
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co
1. 80-34942/13810
2. 42-179-00000-0000
3. 108 000 000
4. Amoco Production Co
5. T B Cobb #9
6. Panhandle
7. Gray, TX
8. 3.2 million cubic feet
9. May 21, 1980
10. Skelly Oil Co
1. 80-34943/13830
2. 42-435-19220-0000
3. 108 000 000
4. El Paso Natural Gas Co
5. Meckel B #2
6. Sonora Canyon Upper
7. Sutton, TX
8. 24.0 million cubic feet
9. May 21, 1980
10. El Paso Natural Gas Co
1. 80-34944/13985
2. 42-311-30968-0000
3. 103 000 000
4. Exxon Corp
5. Dilworth Field G U #1 No. 4
6. Dilworth (Edwards Lime)
7. McMullen, TX
8. 660.0 million cubic feet
9. May 21, 1980
10. Transcontinental Pipeline Co
1. 80-34945/14005
2. 42-323-31355-0000
3. 103 000 000
4. Conoco Inc
5. N J Chittim No. 4063
6. Sacatosa (San Miguel #1 Sand)
7. Maverick, TX
8. 7.6 million cubic feet
9. May 21, 1980
10. Lovaca Gathering Co
1. 80-34946/14015
2. 42-433-30906-0000
3. 103 000 000
4. Getty Oil Co
5. Flowers Canyon Sand Unit #158
6. Flowers (Canyon Sand)
7. Stonewall TX
8. 2.0 million cubic feet
9. May 21, 1980
10. Cities Service Co
1. 80-34947/14021
2. 42-003-31740-0000
3. 103 000 000
4. Exxon Corp
5. Means (San Andres) Unit #1324
6. Means
7. Andrews TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34948/14067
2. 42-105-32180-0000
3. 103 000 000
4. Suburban Propane Gas Corp
5. McMullan A 2
6. Davidson Ranch (Penn 7890)
7. Crockett TX
8. 182.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34949/14078
2. 42-495-31024-0000
3. 103 000 000
4. Bass Enterprises Production Co
5. J B Walton No 103
6. Keystone (Colby)
7. Winkler TX
8. 115.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co El Paso Natural Gas Co
1. 80-34950/14548
2. 42-105-32071-0000
3. 103 000 000
4. Indian Wells Oil Co
5. J S Pierce #8-2A
6. Ozona Canyon Sand
7. Crockett TX
8. 200.0 million cubic feet
9. May 21, 1980
10. Northern Natural Gas Co
1. 80-34951/016363
2. 42-301-00000-0000
3. 108 000 000
4. Duncan Drilling Co
5. McElvain #1
6. Wheat
7. Loving TX
8. 3.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34952/016376
2. 42-301-00000-0000
3. 108 000 000
4. Duncan Drilling Co
5. Tom G Wright #1
6. Wheat
7. Loving TX
8. 7.0 million cubic feet
9. May 21, 1980
10. Phillips Petroleum Co
1. 80-34953/18012
2. 42-467-30432-0000
3. 102 000 000
4. Conoco Inc
5. Fruitvale Gas Unit No 4
6. East Fruitvale (Rodessa 3)
7. Van Zandt TX
8. 125.0 million cubic feet
9. May 21, 1980
10. Delhi Gas Pipeline Corp
1. 80-34954/18106
2. 42-393-30691-0000
3. 102 000 000
4. Tenneco Oil Co
5. Ledrick Ranch 1A-54
6. Ledrick Ranch
7. Roberts TX
8. 30.0 million cubic feet
9. May 21, 1980
10. Transwestern Pipeline Co
1. 80-34955/18107
2. 42-393-30661-0000
3. 102 000 000
4. Tenneco Oil Co
5. H L Ledrick 2-8

6. Ledrick Ranch (Morrow Upper)
 7. Roberts TX
 8. 45.0 million cubic feet
 9. May 21, 1980
 10. Transwestern Pipeline Co
 1. 80-34956/18441
 2. 42-287-30544-0000
 3. 102 000 000
 4. Nucorp Energy Inc
 5. Jurcek Unit
 6. Giddings (Austin Chalk)
 7. Lee TX
 8. 53.3 million cubic feet
 9. May 21, 1980
 10. Clajon Gas Co
 1. 80-34957/18442
 2. 42-287-30554-0000
 3. 102 000 000
 4. Nucorp Energy Inc
 5. Michael Unit
 6. Giddings (Austin Chalk)
 7. Lee TX
 8. 2.1 million cubic feet
 9. May 21, 1980
 10. Clajon Gas Co
 1. 80-34958/18443
 2. 42-287-30529-0000
 3. 102 000 000
 4. Nucorp Energy Inc
 5. Myers Unit
 6. Giddings (Austin Chalk)
 7. Lee TX
 8. 36.4 million cubic feet
 9. May 21, 1980
 10. Clajon Gas Co
 1. 80-34959/18444
 2. 42-287-30547-0000
 3. 102 000 000
 4. Nucorp Energy Inc
 5. Gantt T K
 6. Giddings (Austin Chalk)
 7. Lee TX
 8. 21.3 million cubic feet
 9. May 21, 1980
 10. Clajon Gas Co
 1. 80-34960/18445
 2. 42-287-30523-0000
 3. 102 000 000
 4. Nucorp Energy Inc
 5. Hardwick-Biggs Unit
 6. Giddings (Austin Chalk)
 7. Lee TX
 8. 30.6 million cubic feet
 9. May 21, 1980
 10. Clajon Gas Co
 1. 80-34961/18446
 2. 42-287-30515-0000
 3. 102 000 000
 4. Nucorp Energy Inc
 5. Alcocer Fernando
 6. Giddings (Austin Chalk)
 7. Lee TX
 8. 8.8 million cubic feet
 9. May 21, 1980
 10. Clajon Gas Co
 1. 80-34962/18702
 2. 42-051-30431-0000
 3. 102 000 000
 4. Columbia Gas Development Corp
 5. Scott Tyson No 1
 6. Giddings (Austin Chalk) Field
 7. Burleson Co TX
 8. 19.0 million cubic feet
 9. May 21, 1980
 10. Ferguson Crossing Pipe Line Co

1. 80-34963/18703
 2. 42-051-30366-0000
 3. 102 000 000
 4. Columbia Gas Development Corp
 5. George Gaas Et Ux—Fee Unit No 1
 6. Giddings (Austin Chalk) Field
 7. Burleson TX
 8. 16.8 million cubic feet
 9. May 21, 1980
 10. Ferguson Crossing Pipe Line Co
 1. 80-34964/18704
 2. 42-051-30397-0000
 3. 102 000 000
 4. Columbia Gas Development Corp
 5. Marion J Filippone Fee #3
 6. Giddings (Austin Chalk) Field
 7. Burleson TX
 8. 96.0 million cubic feet
 9. May 21, 1980
 10. Ferguson Crossing Pipe Line Co
 1. 80-34965/18705
 2. 42-051-30483-00
 3. 102 000 000
 4. Columbia Gas Development Corp
 5. Raymond Zgabay No 1
 6. Giddings (Austin Chalk)
 7. Burleson TX
 8. 107.0 million cubic feet
 9. May 21, 1980
 10. Ferguson Crossing Pipe Line Co
 1. 80-34966/18706
 2. 42-051-30405-0000
 3. 102 000 000
 4. Columbia Gas Development Corp
 5. Roger W Jeffery Jr Et Ux Fee No 1
 6. Giddings (Austin Chalk) Field
 7. Burleson TX
 8. 883.0 million cubic feet
 9. May 21, 1980
 10. Ferguson Crossing Pipe Line Co
 1. 80-34967/18946
 2. 42-497-00000-0000
 3. 108 000 000
 4. Texaco Inc
 5. N O Denison Gas Unit #1
 6. Boonsville
 7. Wise TX
 8. 12.3 million cubic feet
 9. May 21, 1980
 10. Lone Star Gas Co
 1. 80-34968/19221
 2. 42-393-30650-0000
 3. 102 000 000
 4. Tenneco Oil Co
 5. Russell 1-8
 6. Wildcat
 7. Roberts TX
 8. 18.0 million cubic feet
 9. May 21, 1980
 10. Transwestern Pipeline Co
 1. 80-34969/19839
 2. 42-401-30709-0000
 3. 102 000 000
 4. Tomlinson Interests Inc
 5. Jimmy Myers Et Al No 1 80874
 6. Monroe (Cotton Valley) Field
 7. Rusk TX
 8. 120.0 million cubic feet
 9. May 21, 1980
 10. Ventura Pipeline Corp
 1. 80-34970/19841
 2. 42-203-30608-0000
 3. 102 000 000
 4. Tomlinson Interests Inc
 5. No 1 Hazel Byrne Gas Unit No 2-8494

6. Darco S E (Cotton Valley)
 7. Harrison TX
 8. 120.0 million cubic feet
 9. May 21, 1980
 10. United Gas Pipe Line Co
 1. 80-34971/19842
 2. 42-183-30401-0000
 3. 102 000 000
 4. Tomlinson Interests Inc
 5. No 1 Stinchcomb Heirs 82343
 6. Peatown North (Cotton Valley)
 7. Gregg TX
 8. 180.0 million cubic feet
 9. May 21, 1980
 10.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before June 23, 1980.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17194 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER76-304 et al.]

New England Power Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that on May 22, 1980, New England Power Company (NEPCO) submitted for filing revisions to its revised cost of service and rate schedules.

The original revised cost of service and rate schedules were filed on April 25, 1980, pursuant to Commission Opinion No. 49-A, issued March 26, 1980. NEPCO is filing the present revisions in order to correct errors which were made in the April 25th submittal.

A copy of this filing has been sent to all of the affected parties.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before

June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17153 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP80-22]

Northern Natural Gas Co., a Division of InterNorth, Inc.; Amendment to Application

May 30, 1980.

Take notice that on May 16, 1980,¹ Northern Natural Gas Company, a Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-22 pursuant to Section 3 of the Natural Gas Act, an amendment to its application pending in the instant docket so as to reflect a change in the volumes of natural gas to be imported at a point on the international boundary near Emerson, Manitoba, Canada, beginning November 1, 1980, and to add an import point on the international boundary near Monchy, Saskatchewan, Canada, beginning November 1, 1981, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that, in the application filed in the instant docket on October 11, 1979, it sought authorization to import, at a point on the international boundary near Emerson, Manitoba, up to 200,000 Mcf of natural gas per day and daily volumes in excess thereof if available on a best efforts basis and 73,000,000 Mcf per year commencing November 1, 1980, and continuing through October 31, 1994. Such gas would be purchased by Applicant from Consolidated Natural Gas Limited (Consolidated), of Calgary, Alberta, Canada, pursuant to a gas sales contract dated February 24, 1979, it is said. Applicant states that the volumes to be imported at Emerson would be delivered to Great Lakes Gas Transmission Company (Great Lakes) for transportation and redelivery to Applicant at a point near Carlton, Minnesota. Under the terms of the transportation contract between Consolidated and TransCanada Pipelines, Ltd. (TransCanada),

Consolidated has the option to elect to receive delivery of its gas at a point on the international border at Monchy, Saskatchewan, and under the contract terms, the first election is not to exceed 50 percent of the daily contract quantity then in effect, it is said.

Subsequently, Applicant states that on December 7, 1979, the National Energy Board of the Canadian Government (NEB) issued a decision in the omnibus export proceedings which had been pending before it that was followed by Consolidated being issued a license, granted in accordance with that decision, to export at Emerson, Manitoba, the following daily volumes for sale to Applicant:

November 1 Through October 31—Mcf/Day

1980- 81	1981- 82	1982- 83	1983- 84	1984- 85	1985- 86	1986- 87
200,000	200,000	200,000	200,000	150,000	100,000	50,000

Applicant states that in the proceedings before the Commission in Docket No. CP78-124 and in the companion proceedings before the NEB, witnesses for the Northern Border Pipeline Company (Northern Border) and TransCanada testified that Northern Border, in order to secure financing, would need transportation volumes in addition to those to be imported by Northwest Alaskan Pipeline Company. It was suggested that Consolidated and Progas Limited (Progas), another export licensee, seek amendments from the NEB to their licenses adding Monchy, Saskatchewan, as an additional point on the international boundary from which Consolidated and Progas could export their authorized export volumes, for transportation through Northern Border.

In view of this, Consolidated applied to the NEB to have its license amended to include Monchy, Saskatchewan, in addition to Emerson, Manitoba, as an export point and to authorize the export through the Monchy delivery point, beginning November 1, 1981, of up to 100,000 Mcf per day and up to 180,000,000 Mcf throughout the term of the license, it is said. Applicant states that in April of 1980, the NEB issued its decision, subject to approval by the Canadian Government, approving the amendment to the license as requested.

In view of all of the above, Applicant hereby amends its original application to import volumes of natural gas at a point on the international boundary near Emerson, Manitoba, beginning November 1, 1980, and also to import up to 100,000 Mcf per day of natural gas at a point on the international boundary

near Monchy, Saskatchewan, beginning November 1, 1981. In accordance with the original application, the volumes to be imported at Emerson would be delivered to Great Lakes for transportation and redelivery to Applicant, it is said.

Applicant states that the gas to be imported at Monchy would be delivered to Northern Border for transportation and redelivery to Applicant at Ventura, Iowa. Applicant also states that it and Northern Border are presently negotiating the contractual arrangements for the transportation of the Consolidated volumes. At such time as a contract is executed, Northern Border would make appropriate filings for authorization to transport the subject gas, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.0). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17154 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP79-264]

Northern Natural Gas Co.; et al.; Application Amendment

May 30, 1980.

Take notice that on May 9, 1980, Northern Natural Gas Company Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, Florida Gas Transmission Company (Florida), P.O. Box 44, Winter Park, Florida 32790, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-264 a joint amendment to their application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to revise plans for the construction and operation of facilities designated the Matagorda Offshore Pipeline System

¹ The application was initially tendered for filing on May 16, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until May 20, 1980; thus, the filing was not completed until the latter date.

(System) as well as related facilities, and the transportation of volumes of gas for Southern by Florida from points in Texas to Louisiana, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that on April 11, 1979, Northern filed for authorization to construct and operate approximately 42 miles of 24-inch pipeline to transport gas from the Matagorda Island Block 686 onshore to a point of interconnection with the pipeline of Houston Pipe Line Company (Houston) in Refugio County, Texas. It is also stated that Florida and Southern filed an application on September 6, 1979, for authorization to construct and operate approximately 40 miles of 24-inch pipeline to transport gas from Matagorda Blocks 664 and 665 to a point of interconnection on Florida's 20-inch pipeline in Refugio County, Texas. Applicants have since agreed and request authorization herein to construct and operate one 24-inch pipeline to transport gas from Matagorda Blocks 665 and 686 to points connecting with the Florida and Houston pipelines, it is stated.

Applicants state that the 1980 construction of Phase I would consist of approximately 18 miles of 24-inch pipeline from Matagorda Island Block 665 to a proposed interim tie-in point near the terminus of Houston's 12-inch pipeline located in San Antonio Bay together with appurtenant facilities and approximately .5 mile of 12-inch pipeline and appurtenant facilities from the 24-inch line to interconnect with the Houston pipeline. The estimated cost of such facilities would be approximately \$16,311,000.

Applicants state that the 1981 construction of Phase II would consist of approximately 5 miles of 24-inch pipeline from Matagorda Island Block 665 to the production platform on Matagorda Island Block 686, and approximately 22 miles of 24-inch pipeline from the end of the 24-inch pipeline in San Antonio Bay constructed in 1980 to points of interconnection onshore with the pipelines of Florida and Houston in Refugio County, Texas, together with the necessary measuring and appurtenant facilities at such points of interconnection. The estimated cost of such facilities would be approximately \$19,680,000.

Applicants state additional related facilities which would be required to facilitate the transportation of volumes of gas produced from Blocks 664 and 665 and which Florida and Southern propose to own, construct, and operate jointly consist of:

(1) Approximately 500 feet of 12-inch pipeline connecting the Block 665 platform to the proposed 24-inch pipeline and approximately 1.3 miles of 6-inch pipeline from a caisson in Matagorda Island Block 665 to the production platform in Block 665;

(2) A meter station on the production platform in Matagorda Island Block 665; and

(3) Two 1,350 horsepower compressors on the production platform in Matagorda Island Block 665.

The foregoing facilities would be constructed in 1980 at an estimated cost of approximately \$4,873,000.

Applicants state that the costs of the system would be contributed by Northern, Southern and Florida in proportions of 60.5 percent, 23.0 percent, and 16.5 percent, respectively. Northern has retained an option to contribute up to 68.0 percent of the total cost, entitling Northern to that proportion of total capacity in the System; however, Southern and Florida would always be entitled to a minimum capacity of the greater of 32.0 percent or 125,000 Mcf per day. Applicants assert.

It is additionally stated that Florida would construct in 1980, own and operate certain facilities at an interconnection between it and those of Houston, in San Patricio County, Texas, and Northern would construct in 1981, own and operate measuring facilities on the platform of Matagorda Block 686. Florida requests authorization to transport gas for Southern from interconnections with Houston and the System in San Patricio County, Texas, and Refugio County, Texas, respectively, to Washington Parish, Louisiana. It is stated that transportation from the interconnection with Houston would be for an interim period until the completion of Phase II facilities.

It is stated that Phase I would be constructed by Florida and Southern at a cost of approximately \$16,311,000 with Northern contributing \$2,100,000. Northern further states that it would construct Phase II and bear all cost of such facilities estimated to be approximately \$19,680,000. It is asserted that the proposed facilities would be financed initially from internally generated funds, and to the extent permanent financing is required, it would be done as part of Applicants' long-term financing programs.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17155 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2088]

Oroville-Wyandotte Irrigation District; Application for Amendment of License

May 29, 1980.

Take notice that on November 23, 1979, the Oroville-Wyandotte Irrigation District (Licensee) filed an application for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for the existing South Fork Project No. 2088, located on the South Fork Feather River and its tributaries in Butte County, California. Correspondence with the Licensee should be directed to: Mr. Milton Emerson, General Manager-Chief Engineer, Oroville-Wyandotte Irrigation District, P.O. Box 229, Oroville, California 95695.

The Licensee seeks authorization to construct: (1) a 90-inch diameter penstock within the existing outlet tunnel for the Sly Creek Dam; (2) an outdoor-type powerhouse, adjacent to the outlet portal of the tunnel, containing a single generating unit with a rated capacity of 13,200 kW; and (3) a switchyard adjacent to the powerhouse.

The Licensee estimates the capital cost of the proposed action to be \$13,465,000 as of November 1980. Energy generated by the power plant would be delivered to the Pacific Gas and Electric Company (PG and E) at the powerhouse switchyard for use in PG and E's system.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for

protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before July 11, 1980. 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. 80-17156 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-365]

**Panhandle Eastern Pipe Line Co.;
Application**

May 30, 1980.

Take notice that on May 14, 1980, Panhandle Eastern Pipeline Company (Applicant), P.O. Box 1642, Houston, Texas 77001 and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP80-365 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 pipeline and related compression facilities in Weld and Adams Counties, Colorado, in order to connect new supplies of natural gas from the Wattenberg Field, 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 the following pipeline and compression facilities:

150 miles of 4-inch pipeline;
2.5 miles of 6-inch pipeline;
6.2 miles of 8-inch pipeline;
6.0 miles of 12-inch pipeline;
Two 4,000 horsepower compressor units; and
One 3,000 horsepower compressor units.

Applicant additionally purposes to relocate one 568 horsepower compressor unit from its existing Plains Compressor Station in Meade County, Kansas, to the Hudson Compressor Station in Weld County, Colorado.

Applicant states that it has attached to its pipeline system substantial reserves of natural gas from the Denver Julesburg Basin of Colorado, the majority of which would be produced in the Wattenberg Field from the "J" Sand Formation. It is stated that Amoco Production Company, one of the major

producers of natural gas in the Wattenberg Field from which Applicant purchases gas, has been authorized to drill "second wells" in the "J" Sand Formation. Thus, Applicant has concluded that approximately 775 additional wells could ultimately be drilled in the Wattenberg Field over a six-year period, it is stated. It is also asserted that Applicant has already requested authority to construct and operate pipeline facilities to connect the initial 100 infill drilled wells, and now requests authorization to construct and operate facilities to connect the next 300 wells during the approximate period of June 1980 to December 1982.

Applicant believes that the additional 300 wells would add initial recoverable reserves of approximately 282,000,000 Mcf and would result in an increase in average daily deliveries to Applicant of approximately 33,500 Mcf per day by December 31, 1981, and 67,000 Mcf per day when all 300 wells have been connected by approximately December 31, 1982.

Applicant states the cost of the proposed facilities is estimated to be \$37,358,000, which would be financed from funds available to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion

believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17157 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-94]

**Peoples Natural Gas Co. a Division of
InterNorth, Inc.; Order Accepting for
Filing and Suspending Proposed Rate
Increase and Establishing Procedures**

Issued: May 29, 1980.

On April 29, 1980, Peoples Natural Gas Company, a Division of InterNorth, Inc. (Peoples),¹ tendered for filing proposed changes in its FERC tariff proposed to become effective May 29, 1980.² The proposed increased rates are based on a test period reflecting actual costs for the twelve months ended December 31, 1979, as adjusted for known and measureable changes in costs for the nine months ended September 30, 1980. Peoples' proposed rate changes would increase to jurisdictional revenues by \$54,236 per year which represent a 25% increase in revenues excluding those attributable to purchased gas costs. Peoples states that the principal reasons for the rate increase include increases in operating costs and the need for a 13.32% overall rate of return. That rate of return is equal to the return claimed by Peoples' affiliate, Northern Natural Gas Company (Northern) in Docket No. RP80-88. That overall return includes a 15.5% return on common equity.

Public notice of Peoples' filing was issued on May 5, 1980, providing for protests or petitions to intervene to be filed on or before May 23, 1980.

¹ Peoples was formerly known as Peoples Natural Gas Division of Northern Natural Gas Company. On March 27, 1980, its parent was changed from Northern Natural Gas Company to InterNorth, Inc. and Peoples, formerly an operating division of Northern, became an operating division of InterNorth, Inc., and its name was changed to Peoples Natural Gas Company. The wholesale natural gas operations of Northern Natural Gas Company, Division of InterNorth, Inc., are conducted under and in accordance with Original Volumes No. 1 through 3 of the Tariff, and Original Volume No. 4 comprises the Tariff under which Peoples conducts its interstate jurisdictional gas operations.

² Since the effective date proposed by Peoples does not reflect the full 30 days notice, we shall treat it as an implicit request for waiver of the notice requirements.

Based upon a review of Peoples' filing, the Commission finds that the proposed rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Furthermore, we do not find good cause to grant the implicit request for waiver of the 30 day notice requirement. Accordingly, the Commission will accept for filing the tariff sheets listed in Appendix A, suspend their effectiveness for five months until October 30, 1980, and shall set the matter for hearing.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Peoples.

(B) Peoples implicit request for waiver of the 30 day notice requirement is denied.

(C) The aforementioned tariff sheets tendered for filing are accepted for filing and suspended for five months, until October 30, 1980, when they shall be permitted to become effective, subject to refund, upon motion filed by Peoples in accordance with the provisions of the Natural Gas Act.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before September 8, 1980.

(E) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17156 Filed 5-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-85]

Sierra Pacific Power Co.; Filing

May 30, 1980.

The filing company submits the following:

Take notice that on May 11, 1980, Sierra Pacific Power Company submitted for filing a compliance report pursuant to the Commission's order of October 22, 1979 in the above referenced proceeding.

A copy of this filing has been served upon the effected wholesale customers, and the affected state commissions.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17159 Filed 5-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-412]

Southern California Edison Co.; Filing of Initial Rate Schedule

May 30, 1980.

The filing Company submits the following:

Take notice that on May 22, 1980, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, an agreement, dated March 6, 1980, with the Department of Water and Power of the City of Los Angeles ("Los Angeles"). The agreement is entitled "Edison-Los Angeles Interruptible Transmission Service Agreement" (the Agreement).

Under the terms of the Agreement, Edison will provide interruptible transmission service from the Four Corners Generating Station Switchyard to the Moenkopi or Eldorado 500 kV bus for energy purchased by Los Angeles from Public Service Company of New Mexico or other suppliers. Edison will charge Los Angeles for transmission, dispatching and scheduling services, all at rates and conditions set forth in the Agreement.

Edison requests that the Agreement be made effective as an initial rate schedule 60 days after the date of filing with the Commission. Upon acceptance for filing by the Federal Energy Regulatory Commission, the Agreement will become effective and service may commence. The Agreement will then continue in effect until terminated by

either party on 30-days advance notice to the other party.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Department of Water and Power of the City of Los Angeles.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17160 Filed 5-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-415]

Southern Co. Services, Inc.; Filing of Initial Rate Schedule

May 30, 1980.

The filing Company submits the following:

Take notice that Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (the Southern Companies) on May 27, 1980, tendered for filing service Schedule E providing for a long term power sale from the Southern Companies to Mississippi Power & Light Company (MPL). Service under the rate schedule is scheduled to commence on July 1, 1980. Service Schedule E between the Southern Companies and MPL makes provision for a long term power sale from the Southern Companies to MPL and specifies the rates for capacity and energy transactions to be conducted pursuant to such schedule.

Southern Company Services, Inc. requests waiver of the Commission's sixty (60) day notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17161 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-374]

Southern Natural Gas Co.; Amendment to Application

May 30, 1980.

Take notice that on May 12, 1980, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-374 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application pending in the instant docket so as to reflect the withdrawal of one customer from the proposed storage service, the assignment of that customer's storage and transportation volumes to another customer, a change in location for certain proposed facilities and a revision to the initial charge for the storage and transportation services, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By its application filed on June 20, 1979, in the instant docket, Applicant requested authorization to perform gas storage services and related transportation services for certain of its customers and to construct and operate the facilities necessary to effectuate those related transportation services. It is stated that such storage and transportation services were to have been provided pursuant to the various storage service agreements and storage transportation agreements between Applicant and Atlanta Gas Light Company (Atlanta); City of LaGrange, Georgia; Jupiter Industries Inc., doing business as Chattanooga Gas Company (Chattanooga); and South Georgia Natural Gas Company.

However, Applicant indicates that on April 21, 1980, Chattanooga requested that it be allowed to withdraw from the proposed storage service project and to cancel its 100-day storage service agreement and storage transportation

agreement with Applicant. Inasmuch as Applicant was able to arrange with Atlanta to purchase Chattanooga's storage service volume, Applicant has agreed to Chattanooga's withdrawal from the storage project, it is said. Thus, it is stated that, because of the withdrawal of Chattanooga from the storage service project, the storage injection volumes to be included in Applicant's Index of Requirements for Chattanooga have been deleted by this amendment.

Because of Atlanta's acquisition of Chattanooga's storage service volumes, the storage service entitlement of Atlanta would be increased from 5,150,000 Mcf to 5,550,000 Mcf under Atlanta's 100-day storage service with Applicant, and, accordingly, Applicant and Atlanta have executed revisions to Atlanta's 100-day storage agreement and storage transportation agreement to reflect this change, it is asserted. These additional storage volumes are to be equally divided for transportation and redelivery between two redelivery points, Calhoun No. 2 and Chatsworth, under the related storage transportation service for Atlanta, it is stated.

Applicant further proposes herein to change the proposed location of the Calhoun No. 2 Measuring Station, which is to be constructed and operated as part of Applicant's Calhoun delivery point to accommodate the increased capacity required by the proposed transportation service, from Mile Post 73.721 on Applicant's Chattanooga Line to Mile Post 74.57 on said line. The capacity of this proposed measuring station would remain unaffected by this amendment, it is asserted.

Finally, Applicant proposes to revise the initial transportation rate such that the costs of constructing the additional facilities required to implement the related storage transportation services are included in Applicant's rate base and in the cost of service underlying the rates for the sale of gas on Applicant's system. The initial rate would be filed with the Commission thirty days prior to the initiation of service, and calculated by applying a ratio, represented by the investment in the additional facilities to Applicant's total gross transmission plant, to the total transmission cost of service including the cost of service of said storage service transportation facilities, less fuel gas, it is stated. When all costs associated with the additional facilities are reflected in the cost of service in Applicant's next general rate increase filing following implementation of the initial transportation charge, revenues from said storage transportation service would be

deducted from the transmission cost of service before allocation of costs and the design of other resale rates, and such revenues would be collected to refund pending the outcome of that rate case, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17162 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-373]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc. and Transcontinental Gas Pipe Line Corp.; Application

May 30, 1980.

Take notice that on May 19, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Transcontinental Gas Pipeline Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-373 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessarily authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose herein to transport and exchange gas pursuant to an exchange and transportation agreement between them dated March 21, 1980. Under the agreement, it is stated, Tennessee would receive from Transco in the West Cameron 498 field, offshore Louisiana, all of Transco's interest, and would exchange less than 50 percent of such volume by Transco's receiving an equal volume of gas from Tennessee produced from blocks

connected to the High Island Offshore System (HIOS), offshore Texas. Applicants state that volumes of gas not exchanged would be transported by Tennessee through its facilities for Transco and through capacity available to Tennessee in Texas Eastern Transmission Corporation's (TETCO) system. It is stated that once gas, including Transco's gas from West Cameron Block 498, would be delivered by Tennessee to TETCO, it would become subject to the transportation arrangement between Tennessee and TETCO as authorized in Docket No. CP75-127. Tennessee would be required to return such volumes transported for Transco to Transco at existing points of interconnection established in the agreement between Transco and Tennessee, it is stated. The existing points, it is asserted, are a point located 5.11 miles north of Tennessee's compressor station 823 on the Kinder-Natchitoches line in Jefferson Davis Parish, Louisiana, and/or from time to time, at existing interconnections at Crowley, Acadia Parish, Louisiana; Louise, Wharton County, Texas; Katy, Waller County, Texas; and other interconnections where gas could be delivered to or for the account of Transco.

Applicants further state that in the event Tennessee would be unable to receive all the gas available from Transco's interest from West Cameron Block 498 on any day, Tennessee would take not less than 50 percent of the total volume of gas received by Tennessee from Tennessee's and Transco's respective interests in the West Cameron Block 498 on such day.

The transportation agreement, it is stated, is for a term of one year from the date of initial delivery or until HIOS is expanded.

It is asserted that Transco would pay Tennessee:

(1) A demand charge of \$211,750 per month;

(2) A commodity charge equal to the product of 5.07 cents per Mcf times the amount of gas delivered during the month;

(3) A minimum monthly bill consisting of the demand charge plus a volume charge of 5.07 cents times the number of days in said month, times 66% percent of the quantity equal to the greatest number of Mcf delivered by Tennessee to Transco in any one day at said delivery point during the twelve-month period ending with the last day of the month for which the monthly bill is being rendered.

Further, Applicants state that Transco would provide Tennessee 1.95 percent of

the volume received from Transco for fuel and use gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17163 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP78-68]

United Gas Pipe Line Co.; Order Approving Settlement With Modification and Establishing Procedure for Further Hearing

Issued: May 30, 1980.

United Gas Pipe Line Company (United) filed a settlement agreement on January 7, 1980, which would resolve all remaining issues in this docket.¹ The presiding judge certified the settlement

¹ An initial decision on the reserved rate of return issue in this docket was rendered on January 11, 1980.

and questions of law to the Commission on March 14, 1980. Comments on the proposed settlement were filed by United and a number of interested parties.²

The settlement comments raise three contested issues: (1) Several of United's customers ask the Commission to provide for pass-through to their customers of any payback of refunds which they might be required to make to United under Article III of the agreement; (2) The Commission staff opposes that part of the agreement which would permit tracking of certain storage costs to be incurred beyond the end of the test period in this proceeding; (3) Three parties object to United's practice of rolling in the costs of expensive gas supplies allegedly purchased by United in order to reduce curtailment of its non-jurisdictional industrial customers. They seek a hearing in this docket which would permit opportunity for refunds in the event United's practice of rolling in costs is found to be unlawful.

The Settlement

The principal provisions of the settlement are as follows:

1. *Cost of service.* The total settlement cost of service is \$1,219,957,510 and reflects a rate base of \$345,721,428. The cost of service gas costs have been included at a base gas cost of \$1.2058 per Mcf of sales. Article I of the agreement provides that any issue with respect to gas costs for the period that the Docket No. RP78-68 rates are effective shall be resolved by final order in Docket No. RP72-133.

2. *Cost classification, cost allocation and rate design.* The parties will use the principles approved by the Commission for the period covered by United's rate filing in Docket No. RP77-107. Total annual volumes used for allocation of costs of service are 744,068,200 Mcf for the Southern Zone and 878,905,720 Mcf for the Northern Zone.

3. *Refunds and rate adjustments.* In addition to the general refund obligation under the settlement, additional refunds or rate adjustments may become due as a result of: (1) a final order with respect to gas costs; (2) final determination in other dockets of a number of outstanding cost of service issues; (3)

² Laclede Gas Company, the Public Service Commission of New York, the Missouri Public Service Commission, Columbia Gas Transmission Corporation, Mobile Gas Service Corporation and Mississippi Valley Gas Company, Southern Natural Gas Company, Texas Eastern Transmission Corporation, Mississippi River Transmission Corporation, United Municipal Distributors Group, Memphis Light, Gas and Water Division, and the Commission staff.

changes in allowances for taxes; and (4) increases in sales volumes.

In the event United makes rate reductions or refunds prior to a final Commission order or appellate decision which determines that the refunds theretofore received by any customer are excessive, such customer shall repay to United the excessive refunds theretofore received.

Except as otherwise provided, interest on refunds and on any supplemental payments required to be made by customers will be at an annual interest rate of 9% or such other interest rate as may be established by the Commission.

4. *Costs incurred under producer reimbursement agreements.* The cost of service includes \$3,717,607 of costs attributable to certain exploration and funding agreements between United and certain producers. The standards to be applied to determine the amount of such costs qualifying for inclusion in costs of service is presently at issue in Docket No. RP74-20, et al., and the parties agree that those amounts associated with the producer reimbursement agreements shall be included in United's costs of service for the period that the Docket No. RP78-68 rates are effective, subject to the final order concerning appropriate treatment of such costs in RP74-20, et al.

5. *Advance payments.* Rate base reflects the inclusion of advance payments in the aggregate amount of \$63,483,957 pending and subject to the final outcome of the advance payment issue in *United Gas Pipe Line Co. v. F.E.R.C.*, 597 F.2d 581 (5th Cir. 1979).

6. *Book depreciation.* The cost of service and rate base shall reflect the depreciation rate(s) established in Docket Nos. RP71-41, RP72-75, RP74-20, RP74-83, RP75-30, RP75-109 and RP76-84 (as may be subsequently modified by any courts on appeal or by the Commission on remand), for all property except offshore lateral lines constructed or acquired by United after July 1, 1977. The depreciation rate for United's interest in the HIOS laterals will be 14 percent.

7. *Transportation compression and ANR storage of gas.* The cost of service reflects \$35,097,931 in annual costs incurred by United under agreements for transportation and compression of gas by others. The agreement provides a mechanism by which United may submit rate changes each January and July to track the jurisdictional portion of any increase and requires such filings to track decreases in net cost related to the services. The cost shall include all changes for transporting, handling, compressing, metering and associated services.

8. *Transportation revenues and credits.* United shall credit the jurisdictional portion of transportation revenues to Account 191 provided the revenues are not related to (1) transportation rate schedules to which costs were allocated in developing the settlement rates; and (2) transportation rate schedules whose revenues were credited to the settlement cost of service. United may retain one cent per Mcf transported to the extent permitted by the NGPA of 1978 and the Commission's Regulations.

9. *Federal taxes.* The cost of service will include an income tax component based upon the statutory corporate Federal income tax rate, as may be modified from time to time.

10. *Sales refund obligation.* The settlement rates are based on an annual total system sales volume of 825 million Mcf. If actual sales volumes for the 12 months ending November 30, 1979, or any subsequent 12-month period during the term of the agreement exceed 825 million Mcf, United agrees to a sales refund obligation subject to United's right to offset against refunds the amount by which its actual fixed costs exceeds the settlement fixed costs.

11. *Rate of return.* Determination of the appropriate rate of return has been reserved for trial in this docket. Pending final resolution of the issue, the settlement rates and any refunds made will be based on an overall rate of return of 12.06 percent.

12. *Cost of service tax depreciation.* Allowance for federal income taxes will be computed in accordance with the procedures set out in Article VIII of the October 12, 1978, settlement agreement in *United Gas Pipe Line Co.*, Docket No. RP77-107. The use of tax normalization in computing the federal income tax allowance and associated refunds is subject to final Commission order disposing of Order No. 530-B on remand.

Upon review, the Commission finds that the settlement agreement represents a reasonable resolution of the issues in this proceeding, is in the public interest and should be approved subject only to the limited modification set forth below.

Passthrough of Refund Paybacks

Section D, Article III, of the proposed settlement provides that in the event United makes refunds prior to a final Commission order or appellate decision which determines that such refunds are in excess of that to which customers are entitled, the settlement rates will be recomputed and United's customers will be required to pay to United, with interest, the excessive refunds theretofore received. A number of

United's customers object to the fact that the settlement contains no provision for pass-through to their customers of any refunds which they may have to repay to United under Article III.

Because United is protected via Article III against the adverse impact of excessive refunds, the Commission finds it equitable to permit United's jurisdictional pipeline customers to the extent necessary, to use their PGA clauses to recover from their customers the jurisdictional portion of any refund repayments, plus interest, which they may be required to make pursuant to Section D, Article III, of the agreement. The pipelines' customers will benefit from the flow-through of any refunds which the pipelines receive from United and, accordingly, we find it reasonable to allow the pipelines, to the extent necessary, to recoup any excessive refunds which are required to be paid back to United.

We note, however, that the concerns of the jurisdictional customers are, for the most part, unfounded. To the extent that any surcharges are made to United's sales rates, the surcharge amounts would be purchased gas costs incurred by United's jurisdictional customers and, as such, would be flowed through to those who purchased from the jurisdictional customers through those customers' respective purchased gas cost adjustment clauses. However, to the extent that a surcharge is applied to a non-sales service (i.e., storage or transmission), the Commission agrees that it is appropriate to permit corresponding surcharges by United's jurisdictional customers.

As to the objecting non-jurisdictional, local distribution customers which also would be affected by Section D, Article III,³ the Commission is unable to safeguard the against the possibility of non-recovery from their retail customers of refund paybacks since we are without authority to authorize them to flow through such refund paybacks to their customers. We believe this is a matter to be resolved between the affected customers of United and the appropriate state regulatory authorities.

Tracking of Storage Costs

The Commission staff objects to a provision in the agreement which would permit United to track in its rates costs associated with the gas storage service to be performed for United by ANR Storage Company (ANR). Staff objects because such costs are for a new service which, according to Staff, will not begin

³ Mobile Gas Service Corporation and Mississippi Valley Gas Company.

until approximately 17 months after the end of the test period in this proceeding.

United, Mississippi River Transmission Corporation and the United Municipal Distributors Group submit that staff's objection should be dismissed. They point out that this tracking provision was adopted as part of a compromise on the sales volumes to be used in computing the RP78-68 rates and upon which the sales refund obligation (SRO) is based. United agreed to increase the sales volume provided the ANR storage costs would be tracked separately, since an increased sales volume otherwise would not ensure it recovery of the storage costs under the SRO.⁴ Mississippi River also points out that the ANR storage service has been fully certificated⁵ and therefore that the initial costs of the service are predictable with extreme accuracy both as to the timing of incurrence and as to amount.

As a general ratemaking policy, the Commission follows a test-year approach and in granting tracking requires the maintenance of a reasonable relationship between costs and revenues. The Commission notes with some concern that the storage cost tracking authority provided for by the settlement would reflect, for the first time in United's rates, costs for a service that did not commence until approximately 17 months after the end of the test period. It therefore becomes questionable whether a reasonable relationship between costs and revenues will be maintained if the subject tracking is approved. We also note, however, that United has agreed, as part of the settlement, to increase sales volumes, to accept a sales refund obligation, and to accept a rate increase moratorium extending to January 1, 1981. Given these and other provisions of the settlement, our concern with the tracking provision is not so great as to require its deletion from the settlement, thereby placing in jeopardy an overall settlement agreement which we find is in the public interest. Therefore, based on the totality of the circumstances of this particular case, we will authorize United to track the ANR storage costs.

Allocation of Purchased Gas Costs

Laclede Gas Company, the Public Service Commission of the State of New York (New York), the Missouri Public Service Commission and Memphis Light, Gas and Water Division contend that United has abused the rolled-in costing

methodology by making jurisdictional customers subsidize purchases of expensive gas supplies which United makes primarily to reduce curtailment of its non-jurisdictional, direct industrial customers. New York also specifically objects to rolling in United's gas purchase costs resulting from sales under section 311 of the NGPA, Canadian or Mexican gas imports, or other acquisitions at prices exceeding the rates applicable under section 102 of the NGPA. These parties request that the allocation issue be set for hearing in this docket with the opportunity for refunds should the present cost allocation method be found unlawful.

United claims that this rate case presents no gas cost issues and that Article I of the settlement reserves all issues with respect to gas costs, including allocation, for resolution in Docket No. RP72-133. It further claims that it is required by Section 19 of its tariff to allocate purchased gas costs on a rolled-in basis and that Section 19 can be modified only two ways: (1) United can file proposed tariff revisions under Section 4 of the Natural Gas Act or (2) the Commission can order modification under Section 5 prospectively only.

The Commission finds that a hearing on the allocation issue should be held in this docket, but that changes, if any, in United's PGA clause should be made effective only prospectively from the date on which a new or revised clause is approved.

Despite the fact that Article I of the settlement purports to remove all "gas costs" issues to Docket No. RP72-133, we find that the issue of whether United's tariff PGA clause is just and reasonable is within the scope of this general rate proceeding and the objecting parties are entitled to prompt resolution of the issue. We do not find Docket No. RP72-133 to be a proper vehicle for determining the allocation issue since that docket involves numerous semi-annual PGA filings which were consolidated for the purpose of determining whether certain emergency purchases by United were reasonable and prudent, and since an initial decision has already been rendered in the docket.

A hearing was ordered in this docket pursuant to both Sections 4 and 5 of the Natural Gas Act, and we conclude that the hearing should continue under Section 5 in order to determine the alleged unfairness of United's currently effective PGA clause. Should there be evidence that United's allocation method results in rates which are unduly discriminatory or preferential, then the PGA clause must be modified to ensure that United's rates are just and

reasonable. No party disputes that United has allocated costs in accordance with its approved PGA clause. As a result, any change in allocation of purchased gas costs should become effective only prospectively upon final Commission decision.⁶

The Commission orders:

(A) The settlement agreement filed in this docket on January 7, 1980, is approved in accordance with the terms of this order.

(B) The hearing instituted on June 30, 1978, shall continue under Section 5 of the Natural Gas Act for the purpose of determining whether any changes are required in United's current tariff PGA clause. Changes, if any, in United's PGA clause shall be made effective prospectively from the date of the Commission's final decision.

Kenneth F. Plumb,
Secretary.

[FR Doc. 17165 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER78-80]

Central Illinois Public Service Co., Compliance Filing

May 30, 1980.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company on May 21, 1980, tendered for filing documents to comply with FERC Opinion No. 75, issued on February 21, 1980, affirming part and modifying part of the Administrative Law Judge's initial decision in Docket No. ER78-80. Petitions for re-hearing in this docket were effectively denied on April 21, 1980, by the Commission.

Copies of the filing were served upon the Company's jurisdictional customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said compliance filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

⁶United Gas Pipe Line Company, Docket No. RP72-133 (PGA 77-2) Order Granting Application for Rehearing, Clarifying Scope of Proceeding, and Granting Intervention, issued November 29, 1977; United Gas Pipe Line Company, Docket No. RP72-133 (PGA 77-2) Order Denying Rehearing, issued January 27, 1978.

⁴Absent a separate tracker, the storage costs would be credited against any sales refund due under the SRO.

⁵Order issued July 23, 1978, Docket No. CP78-432.

Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17140 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-400]

**Central Vermont Public Service Corp.;
Filing of Power Transmission Tariff**

May 30, 1980.

The filing company submits the following:

Take notice that on May 21, 1980, Central Vermont Public Service Corporation (Central Vermont) tendered for filing a rate schedule applicable to the transmission of blocks of power purchased by Allied Power and Light Company, Village of Johnson Water and Light Department, Rochester Electric Light and Power Company, from the Power Authority of the State of New York through the Public Service Board of the State of Vermont as a replacement for power previously purchased from the Power Authority of the State of New York under the NS-20 Contract dated January 20, 1961.

Purchase to Section 35.11 of the Commission's regulations, Central Vermont requests waiver of the 60 day notice requirement and an effective date of January 1, 1980. The request for waiver, Central Vermont states, is in order to provide a rate for transmission of power on the Company's facilities which has been purchased by the three utilities from the New York Power Authority through the Public Service Board of the State of Vermont, which purchase has an effective date of January 1, 1980.

The Company states that the rate under which the service is to be rendered is the same as that provided for in its FERC Rate Schedules No. 89, 93 and 97 and in its filing applicable to the transmission of a block of power from the same source to the Village of Hyde Park Water and Light Department which was noticed by the Commission on April 14, 1980.

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 June 17, 1980. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 17141 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-413]

Cliffs Electric Service Co., Rate Filing

May 30, 1980.

Take notice that on May 23, 1980 Cliffs Electric Service Company ("Service Co.") tendered for filing an agreement which it has executed with the City of Marquette Board of Light and Power and which will replace the current power sale agreement between those two parties. The new agreement extends the term during which Service Co. shall provide Limited Term Power and Short Term Power to the City of Marquette and modifies the energy charge in the prior agreement. Service Co. requests an effective date of May 1, 1980.

Under the new agreement, the charge for Limited Term Power and Short Term Power will be 110 percent of out of pocket costs. The charge for Incidental Energy will be 29.1 miles per Kilowatt hour or 110 percent of out of pocket costs, whichever is greater.

Any person desiring to be heard or to protest this 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 the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 1.8, 1.10). All such petitions or protest should be filed on or before June 23, 1980. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17143 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA80-2-21 (PGA80-3)]

**Columbia Gas Transmission Corp.;
Proposed Changes in FERC Gas Tariff**

May 30, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia) on May 23, 1980, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective June 1, 1980.

Sixty-first Revised Sheet No. 16

Ninth Revised Sheet No. 16A

Fourteenth Revised Sheet No. 64

Columbia states that the foregoing tariff sheets are being filed to reflect a reduction in rates occasioned by a reduced level of purchases from Columbia's supplier, Columbia LNG Corporation, from those reflected in Columbia's original Purchased Gas Adjustment (PGA) filing effective March 1, 1980, and a corresponding increase in the level of purchases from other pipeline suppliers. The total reduction in gas purchase cost applicable to the months of June, July and August is \$20,568,666.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 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 and 1.10). All such petitions or protests should be filed on or before June 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17144 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-414]

**Duke Power Co.; Supplement to
Electric Power Contract**

May 30, 1980.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on May 23, 1980 a supplement to the Company's Electric Power Contract

with the City of Albemarle. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 225.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following changes in contract demand: Delivery Point No. 1 from 46,000 KW to 36,000 KW and Delivery Point No. 2 from 0—KW to 24,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of June 19, 1980.

According to Duke Power copies of this filing were mailed to the City of Albemarle and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17146 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-411]

Florida Power & Light Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on May 21, 1980 tendered for filing an amendment entitled "Amendment Number One to Provide Specified Transmission Service Between Florida Power & Light Company and Jacksonville Electric Authority."

FPL states that under the Amendment FPL will transmit power and energy for Jacksonville Electric Authority (JEA) as is required by Jacksonville in the

implementation of its interchange agreements with the New Smyrna Beach Utilities Commission and the City of Gainesville, Florida.

FPL states that service was initiated prior to the Amendment being executed in order to help JEA at a time when it was experiencing a capacity shortage on its system. FPL states that this was done at the request of JEA and with the concurrence of FERC staff. Accordingly, FPL requests waiver of the Commission's Regulations to the extent necessary to permit the Amendment to be effective as of April 10, 1980 to coincide with the commencement of service. According to FPL, copies of the filing were served on the Director, Procedures and Analysis of JEA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17145 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER80-206]

Florida Power Corp.; Filing

May 30, 1980.

The filing company submits the following:

Take notice that on May 9, 1980, the Florida Power Corporation submitted for filing revised rate schedules, cost of service data, and comparative revenue data. This filing is in compliance with the Commission's order of April 25, 1980 in the above referenced proceeding.

Copies of this filing have been mailed to the affected wholesale customers and to the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and

Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17143 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER78-379]

Indiana and Michigan Electric Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that on May 24, 1980, Indiana and Michigan Electric Company (I&M) submitted for filing a refund report pursuant to the Commission's letter order of April 11, 1980 in the above referenced proceeding.

A copy of this filing has been submitted to the Michigan Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17147 Filed 6-5-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER78-383]

Indiana and Michigan Electric Co.; Filing

May 30, 1980.

The filing Company submits the following:

Take notice that on May 21, 1980, Indiana and Michigan Electric Company submitted for filing a refund report pursuant to the Commission's letter order of April 11, 1980 in the above referenced proceeding.

Copies of this filing have been sent to each of the affected customers, the Public Service Commission of Indiana,

and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17146 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-537]

Lockhart Power Co.

May 30, 1980.

The filing company submits the following:

Take notice that on May 23, 1980, Lockhart Power Company submitted for filing a refund report in compliance with the Commission's letter order of April 24, 1980 in the above referenced proceeding.

A copy of this filing has been sent to the City of Union, South Carolina and the Public Service Commission of South Carolina.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before June 23, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17149 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST80-206]

**Louisiana Interstate Gas Corp.;
Application for Approval of Rates**

May 30, 1980.

Take notice that on May 12, 1980, Louisiana Intrastate Gas Corporation (Applicant), P.O. Box 1352, Alexandria,

Louisiana 71301, filed in Docket No. ST80-206 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Mid Louisiana Gas Company (Mid La), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Mid La have entered into an agreement dated March 3, 1980, whereby Applicant is to provide a transportation service for Mid La for a term of two years. Applicant proposes to accept Mid La's gas at interconnections between Applicant and Mid La in the East Orange Grove Field, Terrebonne Parish, Louisiana, and in the Buffalo Bayou Field, De Soto Parish, Louisiana, and to transport said gas by way of exchange to an interconnection between Applicant and Mid La in Ouachita Parish, Louisiana, or any other mutually agreeable point of interconnection. The exchange gas would be delivered to Mid La at such points, it is said. Additionally, Applicant states that it has been informed by Mid La that it is receiving such natural gas for Mid La's system supply for resale.

Applicant proposes to perform this particular transportation service for Mid La without charge through an existing facility.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 23, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 17150 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-398]

**Montana Power Co.; Agreement for
Sale of Nonfirm Energy Issued May 20,
1980; Addendum**

May 30, 1980

Take notice that in its filing of May 15, 1980, Montana Power Company also

submitted for filing letter agreements with the following companies. The Commission's May 20, 1980 notice was published in the Federal Register at 45 FR 35869 (May 28, 1980).

1. Portland General Electric Company (letter agreement dated November 7, 1979),

2. Los Angeles Department of Water and Power (letter agreement dated November 19, 1979),

3. Southern California Edison Company (letter agreement dated November 19, 1979), and

4. Utah Power and Light Company (letter agreement dated November 7, 1979).

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17151 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-31]

**National Fuel Gas Supply Corp.;
Proposed Changes in Gas Tariff**

May 30, 1980.

Take notice that on May 22, 1980, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed changes in its Gas Tariff, to be effective December 1, 1979.

Original Volume No. 1

Original Sheet Nos. 36D and 37D and First Revised Sheet Nos. 37B and 37C superseding Original Sheet Nos. 45, 37B and 37C respectively.

These corrective tariff sheets are issued to comply with order of the Federal Energy Regulatory Commission in Docket No. RP80-31 dated May 1, 1980, to provide the following: 1) a provision that supplier refunds received but not flowed-through will accrue interest in accordance with Section 154.67(d)(2)(iii) of the Commission's Regulations from the date of receipt to the date of disbursement, 2) a provision that incremental pricing surcharges billed to National Fuel are not included in the Incremental Gas Acquisition Cost Account, and 3) the proper pagination for Sheet Nos. 37B and 37C.

A copy of this filing was served on the following: Mercer Gas Company, National Fuel Gas Distribution Corporation, Cook Gas Company, North East Heat & Light Company, The Peoples Natural Gas Company, Public Service Commission of the State of New York, Pennsylvania Public Utility Commission, Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before June 13, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-17152 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-85-M

Office of the Special Counsel

Imported Crude Oil Transfer Pricing Program

AGENCY: Department of Energy, Office of the Special Counsel for Compliance.

ACTION: Notice of Public Conference—Change of Location.

Notice is hereby given that the public conference regarding the calculations of maximum and representative prices under 10 CFR 212.84, June 17, 1980, which was published in the *Federal Register* on May 15, 1980 (45 FR 32114), has been moved to Room BEO69 James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. For further information, please contact Leslie Wm. Adams, Associate Solicitor to the Special Counsel for Compliance, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202/633-8292).

Issued in Washington, D.C., May 28, 1980.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 80-17249 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

equivalent method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the *Federal Register*.

Stephen J. Gage,

Assistant Administrator for Research and Development.

June 2, 1980.

[FR Doc. 80-17161 Filed 6-5-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1510-3]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EIS's) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council of Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of May 27, 1980 to May 30, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from June 6, 1980 and will end on July 21, 1980. The 30-day review period for final EIS's as calculated from June 6, 1980 will end on July 7, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal Agency which prepared the EIS. This Notice will give a contact person for each Federal Agency which has filed an EIS during the period covered by the Notice. If a Federal Agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For public availability and/or hard copy reproduction of EIS's filed prior to March 1980: Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, DC 20036.

For Hard Copy Reproduction or Microfiche: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of May 27, 1980 to May 30, 1980 the 30-day review period will be calculated from June 6, 1980. The review period will end on July 7, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of May 27, 1980 to May 30, 1980. The Federal Agency filing the EIS, the name, address, and telephone number of the Federal Agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal Agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II set forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II includes the Federal Agency responsible for the EIS, the name, address, and telephone number of the Federal Agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the *Federal Register* and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal Agency.

Appendix IV set forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal Agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal Agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: June 3, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1508-6]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on May 8, 1980, the Environmental Protection Agency received an application from Thermo Electron Corporation to determine if its Model 49 U.V. Photometric Ambient Ozone Analyzer should be designated by the Administrator of the EPA as an

Appendix I—EIS's Filed With EPA During the Week of May 27 through 30, 1980**DEPARTMENT OF AGRICULTURE**

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Forest Service**Final**

Davy Crockett National Forest Timber Management, Houston and Trinity Counties, Tex., May 28: Proposed is a timber management plan for the Davy Crockett National Forest in Houston and Trinity Counties, Texas. The plan proposes even-aged forest management on the commercial forest land for production of timber projects on a multiple use-sustained yield basis except where reserved for a specific use. The five alternatives considered are: (1) low utilization management, (2) all-aged management, (3) high-yield even-aged management with short rotations, (4) even-aged management, and (5) no action. (FEIS-08-13-79-02). Comments made by: DOI, DOT, USDA, EPA, State Agencies, Groups and Individuals. (EIS Order No. 800413.)

Final Supplement

Fox Unit Land Management Plan, Six Rivers NF, Del Norte County, Calif., May 30: This statement supplements a final EIS, #40600, filed 4-16-74 concerning a land management plan for 30,000 acres of land known as the Fox Unit of the Six Rivers National Forest located in Del Norte County, California. The plan divides the Unit into seven resource zones of varying sizes. Resource management and development including timber management and associated road construction will occur primarily in three of the zones. The other five zones will remain essentially undeveloped. This statement provides additional information concerning geology, erosion, water quality, and fisheries. (USDA-FS-R5-FES-Supp (Adm) 74-25). Comments made by: COE, DOI, State Agencies Groups. (EIS Order #800414.)

DEPARTMENT OF THE ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310. (202) 694-4269.

Draft

Fort Carson Training Land Acquisition, Huerfano, Las Animas and Pueblo Counties, Colo., May 29: Proposed is the acquisition of land to be used for combat maneuver training at Fort Carson in Huerfano, Las Animas and Pueblo Counties, Colorado. Two sites are under consideration: (1) the Huerfano River Parcel located southeast of Pueblo, and (2) the Pinon Canyon Parcel located along the Purgatoire River between Trinidad and La Junta. Land use management plans have been developed for both sites considering the following major elements: (1) training intensity, (2) time of use, (3) boundaries, (4) limited and restricted use areas, (5)

cantonment areas, (6) road development, and (7) river crossings. (Omaha District), (EIS Order #800417.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DEAN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Prudhoe Bay Oil Field Waterflood Project, May 29: Alaska. Proposed is the issuance of permits for the construction and operation of a project to recover an additional billion barrels of oil from the currently producing Prudhoe Bay Oil Field in the North Slope Borough of Alaska. The project would include: 1) widening, raising and extending an existing gravel causeway in the Beaufort Sea; 2) construction and operation of a seawater intake and treatment plant; 3) construction of six new gravel pads and related facilities for pressurizing and distributing seawater; 4) construction and maintenance of about 196 km of pipeline; and 5) widening 27 existing gravel pads and construction of one new gravel pad to accommodate water injection wells. (Alaska District) (EIS ORDER #800416.)

Draft Supplement

San Antonio Channel Improvement (DS-1), Bexar County, Tex., May 30: Proposed is a channel improvement project for the San Antonio Channel in Bexar County, Texas. The alternatives consider no action, structural measures, and nonstructural measures. Nonstructural measure considered include flood warning systems and flood plain evacuation. The structural alternatives considered are: 1) vertical wall cross sections, 2) grass-lined trapezoidal channel cross section, 3) combination of trapezoidal and vertical wall cross section, and 4) U-frame pilot channel. This statement supplements a final EIS, #721179, filed 11-9-71. (Fort Worth District) (EIS ORDER #800420.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 377-4335.

National Oceanic and Atmospheric Administration**Draft**

Gray's Reef Marine Sanctuary, Georgia, May 30: Proposed is the designation of the waters at Gray's Reef, a submerged live bottom area on the South Atlantic Continental Shelf located 17.5 nautical miles due east of Sapelo Island, Georgia, as a marine sanctuary. The designation of a marine sanctuary would provide a program of integrated management and regulations to govern recreational activities, certain activities under permit for scientific and educational purposes, seabed alteration and construction, bottom trawling and specimen dredging, wire trap fishing, marine specimen collecting, and tampering with or removal of

submerged historic and cultural resources. (EIS ORDER #800419.)

Pennsylvania Coastal Management Program, CZM, Pennsylvania, May 30: Proposed is the State of Pennsylvania Coastal Zone Management Program. Approval would allow program administrative grants to be awarded to the State, and require that Federal actions be consistent with the program. Implementation of the program will enhance governance of the State's coastal land and water areas and uses according to the coastal policies and standards. The effect of these policies is to condition, restrict or prohibit various uses in parts of the coastal zone, while encouraging development and other uses in other parts. (EIS ORDER #800418.)

Final

Channel Island Marine Sanctuary, designation, regulatory, Santa Barbara County, Calif., May 30: Proposed is the creation of a marine sanctuary in the waters around the northern Channel Islands and Santa Barbara Island in the northern portion of the Southern California Bight in Santa Barbara County, California. Through regulatory control the following activities would be restricted: 1) oil and gas operations, 2) discharging, 3) alteration of or construction of the seabed, 4) navigation and operation of vessels and aircraft overflights below 1000 feet, and 5) removal or otherwise deliberately harming cultural or historical resources. Comments made by: DOE, HUD, DOI, STAT, DOT, EPA, USAF, COE, State and Local Agencies, Groups, Individuals and Businesses (EIS ORDER #800427.)

U.S. ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Edward Vest, Region VII, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64108 (816) 374-2921.

Draft

Marion County Sewerage Facilities, Grant, Marion County, Kans. May 27: Proposed is the awarding or non-approval of funding for the construction of a conventional sewage collection and treatment system to serve the Marion County Lake Improvement District, Kansas. The project includes: (1) a conventional gravity collection system, and (2) a force main to the City of Marion's proposed treatment plant. Alternatives include: (1) a total retention lagoon, (2) new on-site systems, (3) pressure sewer and vacuum sewer collection systems, and (4) community leach fields. (EPA-907/9-80-002). (EIS Order No. 800410.)

Contact: Ms. Susan Sakaki, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105 (415) 556-6925.

Draft

LA/Orange County Metro Area Sludge Mgmt. Program, Los Angeles and Orange Counties, Calif., May 28: Proposed is the awarding of a grant to the City and County of Los Angeles and Orange County, California, for the purpose of planning, designing, and constructing the proposed sludge management program. The program would involve: (1) for

the City of Los Angeles, dehydration and thermal processing for energy recovery at the Hyperion Treatment Plant; (2) for Los Angeles County, dehydration and thermal processing, composting, and landfilling; and (3) for Orange County, composting and air drying of dewatered sludge in the Round Canyon area. (EIS Order No. 800415)

FEDERAL ENERGY REGULATORY COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Room 3000 S-22, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426 (202) 357-8228.

Final

North Fork Stanislaus River, Project No. 2409, Calaveras County, Calif., May 30: Proposed is the issuance of a license for the North Fork Stanislaus River Project No. 2409, a conventional hydroelectric operation in Calaveras County, California. The license would authorize the construction of 5 dams, 2 powerhouses, 2 tunnels, access roads, transmission lines, recreational facilities, and appurtenant facilities. The alternatives consider: (1) alternative design, construction and operation; (2) other sites; (3) forms of generating equivalent power; and (4) denial of application. (FERC-EIS-0011-D.) Comments made by: COE, USDA, HEW, EPA, AHP, State and Local Agencies, Groups and Individuals (EIS Order No. 800428.)

Final Supplement

Zachary-Fort Lauderdale Pipeline (FS-1), several counties, May 30: This statement supplements a final EIS, No. 760702, filed 5-12-76. Proposed is approval of an application to abandon 889 miles of 24-inch diameter pipeline facilities for conversion to transport light petroleum products for the gulf coast of Florida. The present system extends from Starr County, Texas to Dade County, Florida, and is about 90 percent looped, principally with a 30-inch diameter pipeline, from Zachary, Louisiana to Port Everglades would be completed. The project would traverse the States of Louisiana, Mississippi, Alabama and Florida. (FERC/EIS-0016.) Comments made by: USDA, COE, DOI, EPA, State and Local Agencies Businesses (EIS Order No. 800423.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6300.

Final

Imperial Oaks Subdivision, Mortgage Insurance, Montgomery County, Tex., May 30: Proposed is the issuance of HUD home mortgage insurance for the Imperial Oaks Subdivision, Montgomery County, Texas. When completed the subdivision will contain approximately 3,000 dwelling units on approximately 958 acres. There will also be some commercial reserves and recreational areas within the proposed development. (HUD-R08-EIS-3F.) Comments made by: EPA, COE, DOE, State Agencies, (EIS Order No. 800421.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Heritage Conservation and Recreation Service.

Final

Alaskan Rivers Protection, Alaska, May 30: proposed is the protection of eleven river corridors in Alaska. The corridors would be four miles wide. The alternatives considered are: (1) designation of seven rivers as components of the National Wild and Scenic Rivers System, and study of four rivers for inclusion, (2) administrative withdrawal of the corridors under the public land laws, and (3) no action. (DES-80-10.) (FES-80-16.) Comments made by: AHP, USA, DOC, DOE, HUD, DOI, DOT, EPA, GSA, State Agencies, Groups, Individuals and Businesses. (EIS Order No. 800425.)

Fish and Wildlife Service

Final

Alaska Peninsula, National Wildlife Refuge, Designation, Alaska, May 30: proposed is the designation of approximately 3.5 million acres of federal lands on the Alaska Peninsula, Alaska as a National Wildlife Refuge. The alternatives considered include: (1) no action, (2) designation of all or a portion of the area as a Congressionally established wilderness, (3) establishment of National Wildlife Monument by Presidential proclamation, (4) establishment of a refuge by Secretarial withdrawal, and increasing or decreasing the size of the area. (FES-80-15.) Comments made by: AHP, USA, DOE, HUD, DOI, DOT, EPA, GSA, State Agencies, Groups, Individuals and Businesses. (EIS Order No. 800426.)

Final Supplement

Iliamna National Wildlife Refuge, Designation, Alaska, May 30: This statement supplements a final EIS, No. 750088, filed 1-6-75, concerning the Iliamna National Resource Range in Alaska. This supplement addresses alternatives for the protection and management of the natural resources on 5.7 million acres of federal lands in the Iliamna area. The alternatives considered are: (1) no action, (2) withdrawal of the area with administration by DOI/FWS, and (3) creation of a National Monument with administration by the FWS. (FES-80-17.) Comments made by: AHP, USA, HUD, DOI, EPA, DOE, State and Local Agencies, Groups, Individuals and Businesses. (EIS Order No. 800424.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Carl Bausch, Chief, Section of Energy and Environment, Interstate Commerce Commission, Room 5371, 12th and Constitution Ave. NW., Washington, D.C. 20423, (202) 275-7658.

Final

Golden Triangle RR Company, Lowndes County, Miss., May 30: Proposed is approval of a petition by the ICC for the construction and operation of an 8.8 mile shortline, common carrier railroad in Lowndes County,

Mississippi. The line will connect a proposed Weyerhaeuser pulp and paper facility with an existing Illinois Central Gulf Railroad (ICG) mainline. In a related action the company has applied for 7.5 miles of trackage rights over the ICG and Frisco to an interchange yard two miles north of Columbus. (Finance Docket No. 29170 and 29220.) Comments made by: USDA, COE, EPA, DOI, State and Local Agencies, Individuals. (EIS Order No. 800422.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, Nuclear Regulatory Commission, P-518, Washington, D.C. 20555 (301) 492-8446.

Draft

Dresden Nuclear Power Station, Unit 1, Morris, Grundy County, Ill., May 30: Proposed is primary cooling system chemical decontamination at Dresden Nuclear Power Station, Unit 1, located near Morris, Grundy County, Illinois. The decontamination will involve the circulation of a decontamination solution through the system to dissolve a thin layer of radioactive corrosion products which have accumulated during the 20-year operation of Dresden 1. The alternatives considered are: (1) mechanical cleaning, (2) water flushing, (3) operational techniques, and (4) chemical cleaning. (NUREG-0686). (EIS ORDER No. 800430)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.

Federal Highway Administration

Draft

I-94 Widening/Interchange Modification at Wiard Rd, Washtenaw County, Mich., May 27: Proposed is the widening of I-94 to six lanes between US-12 and just West of Rawsonville Road in Ypsilanti Township, Washtenaw County, Michigan. Also proposed is modification of the interchange of I-94 and Wiard Road. The alternatives considered are: (1) placement of additional lanes, (2) realignment of the Wiard Road Interchange without adding ramps, (3) construction of a complete new interchange, and (4) four designs for a full interchange. (FHWA-MI-EIS-80-01-D). (EIS Order No. 800408.)

Government Way/Lindeke St. Corridor, Spokane, Spokane County, Wash., May 27: Proposed is the realignment and reconstruction of Government Way and Lindeke Street in the City and County of Spokane, Washington. Government Way would be constructed to accommodate four lanes and would shorten the road from .96 to .77 mile. Lindeke Street would be widened from 30 to 36 feet, remain a two-lane facility, and be shortened from .79 to .66 mile. The alternatives considered are: (1) no action, (2) improve existing roadway, and (3) reconstruct Government Way to secondary standards and Lindeke Street to collector arterial standards. (FHWA-WA-EIS-80-02-D) (EIS Order No. 800409.)

Final

Third Street Corridor, IN-37 to IN-45/46 Bypass, Monroe County, Ind., May 27: Proposed is the reconstruction of Third Street between the IN-37 Bypass and the IN-45/46 Bypass in Bloomington, Monroe County, Indiana. The facility would be four lanes with a four foot raised median and an additional lane for turns at major intersections. Additional signalization will be installed. Also included is an underpass at the Louisville/Nashville Railroad. (FHWA-TN-EIS-78-04-F). Comments made by: DOI, USDA, EPA, HUD, DOT, State Agencies (EIS Order No. 800412.)

North-South Expressway, Meeker to Boyce, Rapides County, La., May 27: Proposed is the construction of a portion of the North-South Expressway (I-49) between Meeker and Boyce in Rapides Parish, Louisiana. This EIS finalizes a portion of the project for which the draft EIS, #76127, filed 8-24-76, was written. A preferred alternative is identified. (FHWA-LA-EIS-76-1-F). Comments made by: (EIS Order No. 800429.)

TN-34 Relocation, From TN-34 to TN-44, Sullivan County, Tenn., May 27: proposed is a relocation of TN-34 from the existing TN-34 to a 22 foot section west of TN-44 in Sullivan

County, Tennessee. The project length is 5.14 miles long and will be a typical cross section of two 24-foot lanes divided by a 48-foot median with 12-foot shoulders and 18-foot ditches, all within a minimum of 250 feet of right-of-way. The alternatives considered are: two alignments for relocation, postponing the action, lower level of service and/or a reduced facility design, and public transportation. (FHWA-TN-EIS-78-04-F). Comments made by: HUD, DOI, DOT, COE, HEW, EPA, AHP, State Agencies, Groups and Businesses (EIS Order No. 800411.)

EIS's Filed During the Week of May 27 Through May 30, 1980

[Statement Title Index—by State and county]

State	County	Status	Statement title	Accession No.	Date filed	Originating agency No.
Alaska		Supple	Alaska Peninsula National Wildlife Refuge (FS)	800426	May 30, 1980	DOI
		Draft	Prudhoe Bay Oil Field Waterflood Project	800416	May 29, 1980	COE
		Final	Alaskan Rivers Protection	800425	May 30, 1980	DOI
		Supple	Ilamna National Wildlife Refuge, Designation (FS) ..	800424	May 30, 1980	DOI
Alabama	Several	Supple	Zachary-Fort Lauderdale Pipeline (FS)	800423	May 23, 1980	FERC
California	Calaveras	Final	North Fork Stanislaus River, Project No. 2409	800428	May 30, 1980	FERC
	Los Angeles	Draft	LA/Orange County Metro Area Sludge Mgmt. Program ..	800415	May 28, 1980	EPA
	Orange	Draft	LA/Orange County Metro Area Sludge Mgmt. Program ..	800415	May 28, 1980	EPA
	Santa Barbara	Final	Channel Island Marine Sanctuary, Designation	800427	May 30, 1980	DOC
	Del Norte	Supple	Fox Unit Land Management Plan, Six River NF (FS) ..	800414	May 28, 1980	USDA
Colorado	Las Animas	Draft	Fort Carson Training Land Acquisition Huerfano	800417	May 29, 1980	COE
	Pueblo	Draft	Fort Carson Training Land Acquisition Huerfano	800417	May 29, 1980	COE
Georgia		Draft	Gray's Reef Marine Sanctuary	800419	May 30, 1980	DOC
Florida	Several	Supple	Zachary-Fort Lauderdale Pipeline (ES)	800423	May 23, 1980	FERC
Illinois	Grundy	Draft	Dresden Nuclear Power Station, Unit 1, Morris	800430	May 30, 1980	NRC
Indiana	Monroe	Final	Third Street Corridor, IN-37 to IN-45/46 Bypass	800412	May 27, 1980	DOT
Kansas	Marion	Draft	Marion County Sewerage Facilities, Grant	800410	May 27, 1980	EPA
Louisiana	Rapides	Final	North-South Expressway, Meeker to Boyce	800429	May 27, 1980	DOT
	Several	Supple	Zachary-Fort Lauderdale Pipeline (FS)	800423	May 23, 1980	FERC
Michigan	Washtenaw	Draft	I-94 Widening/Interchange Modification at Wierd Rd.	800408	May 27, 1980	DOT
Mississippi	Lowndes	Final	Golden Triangle RR Company	800422	May 30, 1980	ICC
	Several	Supple	Zachary-Fort Lauderdale Pipeline (FS)	800423	May 23, 1980	FERC
Pennsylvania		Draft	Pennsylvania Coastal Management Program, CZM	800418	May 30, 1980	DOC
Regulatory		Final	Channel Island Marine Sanctuary, Designation	800427	May 30, 1980	DOC
Tennessee	Sullivan	Final	TN-34 Relocation, From TN-34 to TN-44	800411	May 27, 1980	DOT
Texas	Bexar	Supple	San Antonio Channel Improvement (DS)	800420	May 30, 1980	COE
	Houston	Final	Davy Crockett National Forest Timber Management ..	800413	May 28, 1980	USDA
	Montgomery	Final	Imperial Oaks Subdivision, Mortgage Insurance	800421	May 30, 1980	HUD
	Trinity	Final	Davy Crockett National Forest Timber Management ..	800413	May 28, 1980	USDA
Washington	Spokane	Draft	Government Way/Lindeke St. Corridor, Spokane	800409	May 27, 1980	DOT

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Waiver/extension	Date review terminates
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, ATTN: DAEN-CWR-P, Office of the Chief of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Aquatic Plant Control Program, South Carolina.	Revised draft 800238	Apr. 11, 1980	Extension	June 23, 1980.
U.S. DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357	TN-1, East to West of Waverly, Humphreys County, Tennessee.	Final 800307	May 2, 1980	Extension	June 16, 1980.
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335	Gray's Reef Marine Sanctuary, South Atlantic Continental Shelf, Designation.	Draft 800419	June 6, 1980 (see app. I).	Extension	Aug. 5, 1980.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Date of withdrawal
None.				

Appendix IV.—Notice of Official Retraction

Date notice Federal agency contact	Title of EIS	Status/No.	Date notice of availability published in FEDERAL REGISTER	Reason for retraction
None.				

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed with EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Date notice Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in FEDERAL REGISTER	Correction
None.				

[FR Doc. 80-11290 Filed 6-5-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS
COMMISSION

[Report No. B-6]

TV Broadcast Applications Accepted
for Filing and Notification of Cut-Off
Date

Released: May 21, 1980.

Cut-off date: July 7, 1980.

Notice is hereby given that the applications listed below are accepted for filing. Because the applications listed below are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with any application listed below will be accepted for filing.

Petitions to deny the applications listed below and minor amendments thereto must be on file with the Commission no later than the close of business of July 7, 1980. Any application previously accepted for filing and in conflict with any application listed below may also be amended as a matter of right not later than the close of business on July 7, 1980. Amendments filed pursuant to this notice are subject

to the provisions of § 73.3572(b) of the Commission's Rules.

Federal Communications Commission.
William J. Tricarico,
Secretary.

BPCT-790815KI (New), Memphis, Tennessee,
Levee Media, Inc., Channel 30, ERP: Vis.
1561 kW; HAAT: 295 feet.

BPCT-790815KK (New), Memphis, Tennessee,
TV 30, Inc., Channel 30, ERP: Vis. 1276 kW;
HAAT: 865 feet.

BPCT-790815KM (New), Memphis,
Tennessee, APW Enterprises, Inc., Channel
30, ERP: Vis. 2740 kW; HAAT 1,100 feet.

BPCT-790815KN (New), Memphis, Tennessee,
Tennessee Valley Telecasters, Inc.,
Channel 30, ERP: Vis. 1452 kW; HAAT: 502
feet.

BPCT-790615KH (New), St. Petersburg,
Florida, Oak Television of Tampa Bay, Inc.,
Channel 38, ERP: Vis. 4850 kW; HAAT:
1,436 feet.

BPCT-790803KF (New), St. Petersburg,
Florida, Home TV, Inc., Channel 38, ERP:
Vis. 1580 kW; HAAT: 563 feet.

BPCT-790815KH (New), St. Petersburg,
Florida, Minority Broadcasters of Florida,
Inc., Channel 38, ERP: Vis. 5000 kW;
HAAT: 1,383 feet.

BPCT-790921KE (New), Buffalo, New York,
The Great Erie County Telecasting Corp.,
Channel 49, ERP: Vis. 1000 kW; HAAT: 961
feet.

BPCT-791113LD (New), Buffalo, New York,

Channel 49 Buffalo TV, Inc., Channel 49,
ERP: Vis. 5000 kW; HAAT: 346 feet.

BPCT-791130LC (New), Buffalo, New York,
Bison City TV 49 Limited Partnership,
Channel 49, ERP: Vis. 2240 kW; HAAT: 850
feet.

BPCT-791130LD (New), Buffalo, New York,
Unifac Broadcasting Co. of New York,
Channel 49, ERP: Vis. 1000 kW; HAAT: 961
feet.

BPCT-800118KE (New), Rawlins, Wyoming,
Strang Telecasting, Inc., Channel 11, ERP:
Vis. 34.5 kW; HAAT: 334 feet.

BPCT-800118KK (New), Washington, D.C.,
Grant Broadcasting Corporation, Channel
14, ERP: Vis. 5000 kW; HAAT: 745 feet.

BPCT-800118KJ (New), Washington, D.C.,
Focus Broadcasting of Washington, D.C.,
Inc., Channel 14, ERP: Vis. 3177 kW;
HAAT: 538 feet.

BPCT-800118KH (New), Washington, D.C.,
Community Service Broadcasters, Inc.,
Channel 14, ERP: Vis. 5000 kW; HAAT: 540
feet.

BPCT-800118KF (New), Washington, D.C.,
Capital Communications of Washington,
Inc., Channel 14, ERP: Vis. 5000 kW;
HAAT: 424 feet.

BPCT-800117KE (New), Washington, D.C.,
Century Communications, Inc., Channel 14,
ERP: Vis. 2547 kW; HAAT: 585 feet.

BPCT-800118KL (New), Washington, D.C.,
Kent of Washington, Inc., Channel 14; ERP:
Vis. 1795 kW; HAAT: 539 feet.

BPCT-800118KM (New), Washington, D.C.,
Television Communications, Inc., Channel
14 ERP: Vis. 1229 kW; HAAT: 544 feet.

BPCT-800118KN (New), Arlington, Virginia (Washington, D.C. allocation), Urban Telecommunications Corporation, Channel 14, ERP: Vis. 2780 kW; HAAT: 428 feet.
 BPCT-800118KO (New), Washington, D.C., Washington Television, Inc., Channel 14, ERP: Vis. 5000 kW; HAAT: 651 feet.
 BPCT-800118KP (New), Washington, D.C., WSCT-TV, Inc., Channel 14, ERP: Vis. 2422 kW; HAAT: 745 feet.

[FR Doc. 80-17182 Filed 6-5-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-624-DR]

Idaho, Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Idaho (FEMA-624-DR), dated May 22, 1980, and related determinations.

DATED: May 22, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7848.

Note.—The Notice of a major disaster for the State of Idaho dated May 22, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 22, 1980.

The following Counties for Individual Assistance in addition to Public Assistance:

Bonewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, and Shoshone.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance. Billing Code 6718-02)

William N. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-17170 Filed 6-5-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Cancellation of Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-462) notice was published in 45 FR 31492 of May 13, 1980, that a meeting of the Federal Prevailing Rate Advisory Committee

would be held on June 26, 1980. Notice is hereby given that the meeting scheduled for that date has been cancelled.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

June 2, 1980

[FR Doc. 80-17246 Filed 6-5-80; 8:45 am]

BILLING CODE 5325-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Additional Nominations for Members of Consumer Advisory Council

The Board of Governors is seeking from the public additional nominations of qualified individuals for eight appointments to its Consumer Advisory Council. Nominations received will be added to the list of nominees submitted in 1979. All individuals whether nominated last year or this year will be considered by the Board for membership on the 1981 Council.

The Consumer Advisory Council was established by the Congress in 1976, at the suggestion of the Board, to advise the Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Board, therefore, is especially interested in candidates who are familiar with issues in the area of consumer credit and other financial services. The Council by law represents the interest of both consumers and the financial community.

Each year nearly 400 individuals are recommended for membership on the Council, of which generally 10 can be chosen. This year, however, only eight can be selected. Inasmuch as the Council's membership generally is intended collectively to represent all interests in the area of consumer financial services regulations, the Board's appointments are made with a view toward complementing the qualifications of continuing Council members in terms of affiliation and geographic representation. For these reasons, many highly qualified and interested nominees will not have an opportunity to serve on the Council next year. Similarly, every interested group cannot be represented on a 30-member body in any one year.

Generally, the Council meets four times a year for approximately a day and a half. Council members who are not federal employees are paid \$100 for each day spent attending or traveling to and from meetings.

Nominations should be submitted in writing to Janet Hart, Director, Division

of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be received no later than August 1, 1980. Nominations should include the name, address and telephone number of the nominee, past and present positions held, and special knowledge, interests, or experience relating to consumer matters. This information will be made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

The names, affiliations, and terms of office of the current Council members follow:

Members of the 1980 Consumer Advisory Council

Chairman

William D. Warren, Dean, U.C.L.A. School of Law, Los Angeles, California, December 31, 1980

Vice Chairman

Marcia A. Hakala, Assistant to the Vice Chancellor, The University of Nebraska Medical Center, Omaha, Nebraska, December 31, 1980

Julia H. Boyd, Alexandria, Virginia, December 31, 1982

Roland E. Brandel, Partner, Morrison & Foerster, San Francisco, California, December 31, 1980

Ellen Broadman, Attorney, Consumers Union, Washington, D.C., December 31, 1982

James L. Brown, Director, Center for Consumer Affairs, University of Wisconsin Extension, Milwaukee, Wisconsin, December 31, 1981

Mark E. Budnitz, Associate Professor, Emory University School of Law, Atlanta, Georgia, December 31, 1981

Robert V. Bullock, Assistant Attorney General, Commonwealth of Kentucky, Frankfort, Kentucky, December 31, 1980

Richard S. D'Agostino, Senior Vice President, Girard Bank, Philadelphia, Pennsylvania, December 31, 1982

Joanne S. Faulkner, Attorney, New Haven Legal Assistance Association, Inc., New Haven, Connecticut, December 31, 1982

Vernard W. Henley, President, Consolidated Bank and Trust Company, Richmond, Virginia, December 31, 1982

Juan Jesus Hinojosa, Partner, Hinojosa & Ortiz, McAllen, Texas, December 31, 1982

Shirley T. Hosoi, Assistant Vice President, Marketing, Western Bancorporation, Los Angeles, California, December 31, 1982

F. Thomas Juster, Director, Institute for Social Research, Survey Research Center, University of Michigan, Ann Arbor, Michigan, December 31, 1982

Richard F. Kerr, Operating Vice President, Federated Department Stores, Cincinnati, Ohio, December 31, 1981

Robert J. Klein, Senior Editor, Money Magazine, New York, New York, December 31, 1980

Harvey M. Kuhnley, President and Chairman of the Board, Twin City Federal Savings &

Loan Association, Minneapolis, Minnesota, December 31, 1981

Robert J. McEwen, S.J., Professor of Economics, Boston College, Chestnut Hill, Massachusetts, December 31, 1982

R. C. Morgan, President, Government Employees Federal Credit Union of El Paso, El Paso, Texas, December 31, 1980

Margaret Reilly-Petrone, Professor of Economics, Montclair College, Upper Montclair, New Jersey, December 31, 1982

Rene Reixach, Staff Attorney, Greater Upstate Law Project, Rochester, New York, December 31, 1982

Florence M. Rice, President, Harlem Consumer Education Council, New York, New York, December 31, 1981

Ralph Rohner, Professor, Catholic University Law School, Washington, D.C., December 31, 1981

Henry B. Schechter, Director, Office of Housing and Monetary Policy, AFL-CIO, Washington, D.C., December 31, 1981

Peter D. Schellie, Partner, Baker & Daniels, Washington, D.C., December 31, 1982

E. G. Schuhart, Farmer and Rancher, Dalhart, Texas, December 31, 1980

Charlotte H. Scott, Professor of Business Administration and Commerce, University of Virginia, Charlottesville, Virginia, December 31, 1982

Richard A. Van Winkle, President, Lockhart Finance Company, Salt Lake City, Utah, December 31, 1981

Richard D. Wagner, President, Wagner Ford Sales, Inc., Simsbury, Connecticut, December 31, 1980

Mary W. Walker, President, National Bank of Walton County, Monroe, Georgia, December 31, 1981

Chairman Emeritus

Leonor K. Sullivan-Archibald, St. Louis, Missouri, December 31, 1980

Board of Governors of the Federal Reserve System, June 2, 1980.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-17169 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

Barclays Bank Ltd., Barclays Bank International Ltd., Proposed Acquisition of Consumer Finance Offices of Beneficial Corporation

Barclays Bank Limited and Barclays Bank International Limited, both of London, England, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through subsidiaries of their subsidiary, Barclays American Corporation, 138 offices of subsidiaries of Beneficial Corporation.

Applicant states that the proposed subsidiary would engage in (i) making direct consumer loans and purchasing of sales finance contracts representing extensions of credit such as would be

made or acquired by a consumer finance company (ii) wholesale financing (floor planning), but only through Offices located in Ashtabula, Cuyahoga, Franklin and Madison Counties, Ohio, and Nueces County, Texas, and (iii) acting as agent for the sale of related credit life, credit accident and health and credit property insurance (except that the Offices in Pennsylvania will not act as agent for the sale of credit property insurance), underwritten or reinsured in the case of the credit life and credit accident and health insurance sold through the Offices by BAC's insurance underwriting subsidiaries, The Citadel Life Insurance Company and The Citadel Life Insurance Company of South Carolina. The Offices are located in the following States: Idaho (Ada, Bonneville, Canyon, Latah and Payette Counties), Kansas (Geary and Leavenworth Counties), Michigan (Calhoun, Genesee, Saginaw and Wayne Counties), New Mexico (Bernalillo, Curry, Eddy, Lea, Otero and San Juan Counties) New York (Cortland, Fulton, Monroe, Oneida, Onondaga, Ontario, Orange, Oswego, Seneca, Steuben, Warren and Westchester Counties), Ohio (Ashtabula, Butler, Clark, Clermont, Cuyahoga, Franklin, Hamilton, Hancock, Jefferson, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Montgomery, Muskingum, Portage, Seneca, Stark, Summit, Wayne and Wood Counties), Oklahoma (Washington County), Oregon (Baker, Benton, Clackamas, Deschutes, Lane, Linn, Marion, Multnomah and Washington Counties), Pennsylvania (Beaver, Blair, Westmoreland and York Counties), South Dakota (Beadle, Brookings, Lake, Minnehaha and Pennington Counties), Texas (Bexar, Harris, Hutchinson, Kleberg, Midland, Nueces and Potter Counties) and Washington (Chelan, Clallam, Clark, King, Kittitas, Pierce and Whatcom Counties), each Office serving portions of the county in which such office is located and in the certain portions of contiguous counties. Such activities have been specified by the Board in section 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 New York.

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 June 27, 1980.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,
Assistant Secretary of the Board.

[FR Doc. 80-17271 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

Central Indiana Bancorp, Inc.; Formation of Bank Holding Company

Central Indiana Bancorp, Inc., Fairland, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Fairland National Bank, Fairland, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 30, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,
Assistant Secretary of the Board.

[FR Doc. 80-17274 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

**Community Bancshares of Tulsa, Inc.;
Formation of Bank Holding Company**

Community Bancshares of Tulsa, Inc., Tulsa, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Community Bank and Trust Company, Tulsa, 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. Section 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 July 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17273 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

**First Eldorado Bancorporation, Inc.;
Formation of Bank Holding Company**

First Eldorado Bancorporation, Inc., Eldorado, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Eldorado, 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. section 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 July 2, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17276 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

**First National in Cordell Bancshares, Inc.;
Formation of Bank Holding Company**

First National in Cordell Bancshares, Inc., Cordell, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank in Cordell, Cordell, 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. section 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 June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17277 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

**Houston Investments, Inc.; Proposed
Continuation of General Insurance
Activities Conducted in the Name of
Quality Insurance Agency**

Houston Investments, Inc., Caledonia, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance activities conducted in the name of Quality Insurance Agency. These activities would be performed from offices of Applicant in Caledonia, Minnesota and the geographic area to be served in Houston County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulations 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, competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interest, 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 Minneapolis.

Any views or request 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 June 30, 1980.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17272 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

**Lake Benton Bancorporation, Inc.;
Formation of Bank Holding Company**

Lake Benton Bancorporation, Inc., Lake Benton, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of Farmers State Bank of Lake Benton (Incorporated). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 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 June 27, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17275 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

McCook National Co.; Formation of Bank Holding Company

McCook National Company, McCook, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 87.8 percent of the voting shares of McCook National Bank, McCook, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 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 June 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 2, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-17276 Filed 6-5-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meeting Cancellations; Social Work Education Review Committee and Psychiatric Nursing Education Review Committee

In Federal Register Document 80-15685 beginning on page 34424 in the issue of Thursday, May 22, 1980, the June 6 meeting of the Social Work Education Review Committee and the June 24-25 meeting of the Psychiatric Nursing Education Review Committee were announced. These meetings have been cancelled.

Dated: June 2, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental, Health Administration.

[FR Doc. 80-17136 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Compilation of Preambles for Administrative Practices and Procedures Documents; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the second volume of the preamble compilation. This volume contains significant preambles of published Federal Register documents relating to Administrative Practices and Procedures regulations, from March 1936 through March 1978.

ADDRESS: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Lola Batson, Federal Register Writer's Office (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The preamble compilation series has been structured around the current organizational scheme for Food and Drug Administration regulations issued under Chapter I of Title 21 of the Code of Federal Regulations. This compilation is part of a comprehensive effort to make available to the public and the agency a central source for tracing, by subject, the historical development of agency regulations.

Each volume of the preamble compilation will be updated with an annual cumulative pocket supplement. The agency will publish in the Federal Register a notice of availability for each volume and pocket supplement as they become available.

The Administrative Practices and Procedures volume may be purchased from the Superintendent of Documents (address above) for \$12.00. To order, reference GPO stock no. 017-015-00165-2.

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16872 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Robert O. Bartz, District Director, New Orleans District Office, New Orleans, LA.

DATE: The meeting will be held at 1:30 p.m., Tuesday, June 10, 1980.

ADDRESS: The meeting will be held at the Chamber of Commerce, 804 E. St. Mary Blvd., Lafayette, LA.

FOR FURTHER INFORMATION CONTACT: Frances G. Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New Orleans District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 28, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-16873 Filed 6-5-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 80P-0001]

Rinn Corp.; Approval of Variance for "Condy-Ray" Film Holder and X-ray Beam Alignment Instrument

Correction

In FR Doc. 80-12374, appearing at page 27989, in the issue for Friday, April 25, 1980, on page 27990, in the first column, in the paragraph labeled "ADDRESS", in the sixth line, "4062" should be corrected to read "4-62".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. 80N-0017; DESI 11208]

Cyanocobalamin Zinc Tannate Complex; Drugs for Human Use; Drug Efficacy Study Implementation; Announcement; Agency: Food and Drug Administration**Correction**

In FR Doc. 80-12497 appearing in the issue of Friday, April 25, 1980, on page 27990, second column, third paragraph, line 7, "56" should be corrected to read "5600".

In same document, page 27991, first column, last paragraph, line 3, "502" should be corrected to read "505".

BILLING CODE 1505-01-M

Office of the Assistant Secretary for Health**National Committee on Vital and Health Statistics, Subcommittee on International Statistics; Meetings****Correction**

In FR Doc. 80-15383, appearing on page 33726 in the issue for Tuesday, May 20, 1980, the committee name in the document heading should be corrected to read as set forth above.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[OR 1572]

Oregon; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of the Interior, on February 13, 1980, filed a justification for continuation of the existing land withdrawal made by Public Land Order No. 4305 of October 31, 1967. The holding agency desires to continue the withdrawal in its entirety for a 20-year period pursuant to the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714. The following described land is included in the proposed continuation:

Willamette Meridian, Revested Oregon and California Railroad Grant Land

T. 14 S., R. 7 W.,

Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and
W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 132.50 acres in Benton County, Oregon.

The purpose of the withdrawal is to protect the recreational values within the Alsea Falls Recreation Site. The land is currently segregated from operation of the public land laws generally, including location under the United States mining laws. No change is proposed in the purpose or segregative effect of the withdrawal.

On or before July 15, 1980, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before July 15, 1980. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the *Federal Register* giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal justification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the *Federal Register*. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: May 29, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-17252 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 11432]

Colorado; Order Providing for Opening of National Forest Lands

The Federal Energy Regulatory Commission (formerly Federal Power Commission) issued an order February 6, 1978 (FR Doc. 78-3988) vacating in their entirety lands withdrawn for Power Development Project No. 163 affecting portions of the following described lands. These lands are located in the White River National Forest.

Sixth Principal Meridian

T. 9 S., R. 82 W.,

Sec. 6: S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 8: S $\frac{1}{2}$ SW $\frac{1}{4}$ /Sec. 17: N $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 8 S., R. 83 W.,

Sec. 7: S $\frac{1}{2}$ SW $\frac{1}{4}$;Sec. 9: NW $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 21: SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 22: SW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 9 S., R. 83 W.,

Sec. 1: Lot 4; (NW $\frac{1}{4}$ NW $\frac{1}{4}$)Sec. 2: Lot 1; (NE $\frac{1}{4}$ NE $\frac{1}{4}$)Sec. 11: E $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 8 S., R. 84 W.,

Sec. 7: S $\frac{1}{2}$ SW $\frac{1}{4}$;Sec. 16: N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 18: N $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 8 S., R. 85 W.,

Sec. 12: S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 13: N $\frac{1}{2}$ NE $\frac{1}{4}$.

The areas described aggregate approximately 1,196 acres.

At 10 a.m. on July 7, 1980, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest land, subject to any existing withdrawals, leases, licenses or permits.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-17291 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 0123757; 12357]

Colorado Order Providing for Opening of National Forest Lands

The Federal Energy Regulatory Commission (formerly Federal Power

Commission) issued orders February 23, 1978 vacating in their entirety lands withdrawn for Power Development Project No. 907 and 941 affecting portions of the following described lands. These lands are located in the Rio Grande National Forest.

New Mexico Principle Meridian

Project No. 907 (FR Doc. 78-5373)

T. 41 N., R. 3 W.,

Sec. 1: Lots 3, 4, (now described as 7, 8) and S $\frac{1}{2}$ NW $\frac{1}{4}$.

The areas described aggregate approximately 161 acres.

New Mexico Principle Meridian

Project No. 941 (FR Doc. 78-5374)

T. 37 N., R. 4 E.,

Sec. 36: Lots 1 & 2, E $\frac{1}{2}$ Lot 3, NE $\frac{1}{4}$ Lot 4, N $\frac{1}{2}$ Lot 5, N $\frac{1}{2}$ Lot 6.

T. 36 N., R. 5 E.,

Sec. 9: Lots 1, 4, 5, 6, & 7, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

T. 36 N., R. 5 E.,

Sec. 9: Lots 1, 4, 5, 6, & 7, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 10: E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate approximately 518 acres.

At 10 a.m. on July 9, 1980, the above described lands shall be open to such forms of appropriation as may by law be made of National Forest Land, subject to any existing withdrawals, leases, licenses or permits.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 80-17227 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-84-M

[1784 (N-063.1)]

Battle Mountain District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Battle Mountain District Grazing Advisory Board will be held on July 29, 1980. The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 2nd and Scott Street, Battle Mountain, Nevada.

The agenda for the meeting will include: (1) A discussion of the function of the Board; (2) The expenditure of range betterment and advisory board

funds for range improvements; (3) A review of the current policy and program relating to allotment management plans including the ongoing and future grazing environmental statement effort; (4) Discussion of the board's future involvement in the allotment management plan program; (5) Election of officers and; (6) The arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on July 29, 1980 or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2nd and Scott Street, Battle Mountain, Nevada, 89820 by July 24, 1980.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: May 28, 1980.

Gene Nodine,

District Manager, Battle Mountain District, Nevada.

[FR Doc. 80-17247 Filed 6-5-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Miss Green River Boat Concession, Inc., authorizing it to continue to provide concession facilities and services for the public at Mammoth Cave National Park for a period of five (5) years from January 1, 1980, through December 31, 1984.

An analysis of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy

Act of 1969. The environmental analysis may be reviewed in the Office of the Superintendent, Mammoth Cave National Park.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1979, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Miss Green River Boat Concession, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Miss Green River Boat Concession, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before July 7, 1980.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Joe Brown,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 80-17126 Filed 6-5-80 8:45 am]

BILLING CODE 4310-70-M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Santa Monica Mountains National Recreation Area Advisory Commission will be held at the Hall of Administration (Room 374), 500 West Temple Street, Los Angeles, at 4:00 p.m. to 10:00 p.m. on Wednesday, June 18, 1980.

The Advisory Commission was established by Public Law 95-625 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows: Dr. Norman P. Miller, Chairman, Honorable Marvin Braude, Ms. Sarah Dixon, Dr. Henry David Gray, Ms. Mary C. Hernandez, Mr. Michael Levett, Ms. Susan Barr Nelson, Mr. Carey Peck, Ms. Marilyn Whaley Winters.

The major agenda items will be a California State Park briefing, general management plan update; land acquisition update; resource management briefing, and a working session of the State Comprehensive Plan. This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, CA 91364.

Minutes of the meeting will be available for public inspection by July 20, 1980 at the above address.

Dated: May 27, 1980.

Stanley T. Albright,
Acting Regional Director.

[FR Doc. 80-17125 Filed 6-5-80; 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

[INT DES 80-37]

Availability of Draft Environmental Statement

Pursuant to Section 101(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement for PNM's Proposed Four Corners-Ambrosia-Pajarito 500 kV Transmission Project in Northwestern New Mexico.

The statement supplements the Final Environmental Statement for the Proposed Expansion of the San Juan Power Plant (INT FES 77-29).

The draft statement considers the human, economic and physical environmental affects associated with the Federal approvals of right-of-way for the construction of a 500 kV transmission line. Right-of-way for this project will require approximately 2,655 acres of Federally administered lands in northwestern New Mexico.

Comments should be received by the Area Director, Navajo Area Office Bureau of Indian Affairs, Window Rock, Arizona 86515 on or before August 1, 1980.

Copies of the draft statement are available for inspection at the following locations.

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245, Telephone: (202) 343-8248.

Bureau of Indian Affairs, Environmental Quality Services Office, Window Rock, Arizona 86515, Telephone: (602) 871-5151 Extension 5314.

U.S. Department of the Interior, Office of the Secretary, Southwest Region, Room 1400, First National Bank Building, 5301 Central Avenue, NE, Albuquerque, New Mexico 87108, Telephone: (505) 766-3565.

Office of Rural Electrification Administration, South Agricultural Building, 12th and Independence Ave., S.W., Washington, D.C. 20250, Telephone: (202) 447-4766.

Plains Electric Generation and Transmission Cooperative, 2401 Aztec Road, N.E., Albuquerque, N.M. 87107, Telephone: (505) 345-1881.

Dated: May 29, 1980.

James H. Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-17253 Filed 6-5-80; 8:45 am]
BILLING CODE 4310-02-M

Draft Environmental Statement for Public Service Company of New Mexico's (PNM's) Proposed Four Corners-Ambrosia-Pajarito 500 kV Transmission Project; Hearing

A hearing will be held to receive public comments regarding the environmental impacts portrayed in the Bureau of Indian Affairs Draft Environmental Statement for the Proposed PNM Four Corners-Ambrosia-Pajarito 500 kV Transmission Project.

The hearing is scheduled as follows: July 15, 1980 from 3 p.m. to 5 p.m.; July 15, 1980 from 7 p.m. to 9 p.m.; Navajo Room, Albuquerque Convention Center, 401 2nd NW, Albuquerque, New Mexico.

Oral and written statements by interested parties are invited. Oral statement by and party will be limited to no more than 10 minutes. Written statements may be entered into the record by filing a copy with the presiding officer.

Additional information on the hearing and copies of the Draft Environmental Statement may be obtained from the Navajo Area Office Bureau of Indian Affairs, Window Rock, Arizona 86515, Telephone (602) 871-5151 Extension 5314.

Dated: June 2, 1980.

James H. Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-17281 Filed 6-5-80; 8:45 am]
BILLING CODE 4310-02-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 15]

Petitions, Applications, Finance

Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can

be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 12969 (M1F) (notice of filing of petition to modify brokers license), filed March 17, 1980. Petitioner: KENT-SUSSEX TOURS, INC., RD 2, Box 115, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005. Petitioner holds a license in MC 12969 issued August 17, 1978, authorizing operations, as a *broker*, at Greenwood, DE, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Kent and Sussex Counties, DE, and those in New Castle County, DE south of the Chesapeake and Delaware Canal, and Caroline and Queen Annes Counties, MD, and extending to points in the U.S., including the ports of entry on the U.S.-Canada Boundary line and the U.S.-Mexico Boundary line.

By the instant petition, petitioner seeks to add "Milford, DE" as an additional point at which it can engage in the above operations.

MC 114211 Subs 123, 155, 169, 278, 279, 312 and 323 (M1F) (notice of filing of petition for modification), filed August 17, 1979. Petitioner: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Petitioner holds motor common carrier Certificates in MC 114211 Subs 123, 155, 169, 278, 279, 312 and 323, issued February 26, 1971, December 11, 1972, August 22, 1973, October 19, 1978, August 18, 1978, July 20, 1978, and October 17, 1978, respectively. MC 114211 Sub 123 as pertinent, authorizes transportation over irregular routes, of *tractors* (except tractors with vehicle beds, bed frames or fifth wheels), *agricultural machinery and implements*, *industrial and construction machinery and equipment*, *snowmobiles*, *equipment* designed for use in connection with tractors, *trailers*, designed for the transportation of all of the foregoing commodities (except trailers designed to be drawn by passenger automobiles), *attachments* for all of the foregoing commodities, *internal combustion engines*, and *parts and accessories* for all of the foregoing commodities when moving in mixed loads with such commodities, in foreign

commerce only, from ports of entry on the U.S.-Canada Boundary line at Detroit and Port Huron, MI, and Buffalo and Niagara Falls, NY, to points in the U.S. (except AK and HI), restricted to the transportation of shipments originating at the plant and warehouse sites and experimental farm of Massey-Ferguson Industries, Ltd., at Toronto, Brantford, and Milliken, Ontario, Canada; Sub 155 authorizes transportation over irregular routes, of *agricultural implements and parts* for agricultural implements when moving in mixed loads with agricultural implements, from the ports of entry on the U.S.-Canada Boundary line located in MI and NY, to points in the U.S. (except HI, WA, OR, NV, CA, ID, UT, AZ, NM, CO, WY, and MT), restricted to the transportation of shipments originating at the facilities of White Farm Equipment at Brantford, Ontario, Canada, and destined to points in the above-named destination States; Sub 169 authorized the transportation over irregular routes, of *tractors* (except tractors with vehicle beds, bed frames or fifth wheels), *agricultural machinery and implements*, *industrial and construction machinery and equipment*, *such merchandise* as is dealt in by lawn, garden and recreation vehicle dealers (except chemicals and commodities in bulk), *equipment* designed for use in connection with the above referred to commodities, *internal combustion engines*, attachments for all the foregoing commodities, *parts and accessories* for all the foregoing commodities, and *materials, equipment and supplies* used in the manufacture, sale or distribution of all the foregoing commodities (except commodities in bulk), (1) between Detroit, MI, Kaukauna, WI, Des Moines, IA, Clearfield, UT, Cuyahoga Falls, OH, Baltimore, MD, Philadelphia, PA, and Norfolk, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) between ports of entry on the U.S.-Canada Boundary line located in MI and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to the transportation of shipments either originating at or destined to the plants, warehouse sites, experimental farms and other facilities of Massey-Ferguson, Inc., and its affiliates and subsidiaries located at Detroit, MI, Kaukauna, WI, Des Moines, IA, Clearfield, UT, Cuyahoga Falls, OH, Baltimore, MD, Philadelphia, PA, Norfolk, VA, and Toronto, Brantford, and Long Branch, Ont; Sub 278 authorizes the transportation over irregular routes, of (1) *lumber, lumber products, millwork, and forest products*, and (2) *such commodities* as are manufactured or

distributed by lumber mills and lumber yards (except in bulk and those commodities described in (1) above, from points in the U.S. (except AK and HI), to the ports of entry on the International Boundary line between the U.S. and Canada, located at or near Pembina and Dunseith, ND, and Noyes, MN, restricted to the transportation of traffic destined to points in the Provinces of Alberta, Manitoba, and Saskatchewan, Canada; Sub 279 authorizes the transportation, over irregular routes, (1) *commodities which because of size or weight require the use of special equipment*, (2) *machinery, parts and supplies* related to the commodities in (1) above, (3) *commodities* which do not require the use of special equipment when moving in mixed loads with commodities in (1) above, under the same bill of lading and from the same consignor, (4) *self-propelled articles* and (5) *machinery, tools, parts and supplies* related and moving in conjunction with self-propelled articles, between the ports of entry on the International Boundary line between the U.S. and Canada, located at or near Noyes, MN, and Pembina and Portal, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted (1) said service is restricted to traffic moving to or from the facilities of Arnold Bros., Transport Ltd., in the Canadian Provinces, Manitoba and Saskatchewan, for interlining purposes; (2) restricted against the transportation of tractors, road-making machinery, contractors' equipment and supplies, and farm machinery; and (3) restricted against the transportation of oilfield and pipeline commodities as defined in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459. This *Mercer* restriction is applicable only to traffic using the port of entry located at or near Portal, ND; Sub 312 authorizes the transportation over irregular routes, of *lumber, lumber mill products and forest and wood products*, from points on the U.S.-Canada Boundary line at Noyes, MN, to points in the U.S. (except AK and HI), restricted to the transportation of traffic from the facilities utilized by Manitoba Forestry Resources, Ltd., located in Canada; and Sub 323 authorizes the transportation over irregular routes, of *iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, NE, to ports of entry on the U.S.-Canada Boundary line located in MI, restricted to the transportation of traffic destined to points in the Province of Ontario, Canada. By the instant petition, petitioner seeks to modify the above authorities as follows: Sub 123 by (1)

broadening the origin portion of the territory to include all ports of entry; and (2) by deleting the plantsite and warehouse restriction; Sub 155 by (1) broadening the origin portion of the territory to include all ports of entry; and (2) by deleting that portion of the restriction that references origin and facility; Sub 169 by broadening the base territorial description (part 2) to include all ports of entry; Sub 278 by (1) broadening the destination to include all ports on entry; and (2) by deleting the restriction; Sub 279 by (1) broadening the base territorial description to include all ports of entry; and (2) by deleting the restriction that limits service on traffic moving to or from the facilities of Arnold Bros., Transport Ltd; Sub 312 by (1) broadening the origin portion of the territory to include all ports of entry; and (2) by deleting the restriction; and Sub 323 by (1) broadening the destination to include all ports on entry; and (2) by deleting the restriction.

MC 118288 (Sub-47) (M2F) (Notice of filing of petition to modify certificate), filed March 17, 1980. Petitioner: FROST TRUCK LINES, INC., P.O. Box 28, Billings, MT 59103. Representative: Stephen F. Frost (same address as applicant). Petitioner holds a motor *common carrier* certificate in MC 118288 Sub 47F issued December 12, 1979, authorizing transportation over irregular routes, of *general commodities* (except those of unusual value, classes, A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders as defined in 49 U.S. Code 10102(8), between Los Angeles, CA, on the one hand, and, on the other, Seattle, Tacoma, Bellingham, Everett, Yakima, Pasco, and Spokane, WA, Medford, Salem, Eugene, and Portland, OR, and Boise, ID. By the instant petition, petitioner seeks to add service to include "shipments moving for the account of interstate Commerce Commission authorized Freight Brokers" to the above authority.

MC 118288 (Sub-48) (M1F) (Notice of filing of petition to modify certificate), filed March 17, 1980. Petitioner: FROST TRUCK LINES, INC., P.O. Box 28, Billings, MT 59103. Representative: Stephen F. Frost (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 118288 Sub 48 issued February 15, 1979, authorizing transportation over irregular routes, of *general commodities* (except commodities in bulk, in tank vehicles, classes A and B explosives, household

goods as defined by the Commission, and commodities which require special equipment), between points in CA, on the one hand, and, on the other, points in UT, CO and MT, restricted to shipments moving on bills of freight forwarders. By the instant petition, petitioner seeks to modify the above restriction to include "or shipments moving for the account of Interstate Commerce Commission authorized Freight Brokers."

MC 123329 (Sub-11) (M1F) (Notice of petition to modify certificate), filed March 18, 1980. Petitioner: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Petitioner holds a motor *common carrier* Certificate in MC 123329 Sub 11 issued August 21, 1968, authorizing transportation over irregular routes, of *commodities in bulk*, between ports of entry on the U.S.-Canada boundary line located in ND, MT, and ID, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY. By the instant petition, petitioner seeks to modify the above certificate by deleting the specified described ports of entry.

MC 140986 (Sub-9) (M3F) (Notice of filing of petition to modify permit), filed March 24, 1980. Petitioner: GREAT NORTHERN TRUCK LINES, INC., P.O. Box 112, Lover's Lane, Netcong, NJ 07857. Representative: Robert B. Pepper, Forrest Park Bldg., 168 Woodbridge Ave., Highland Park, NJ 08904. Petitioner holds a motor *contract carrier* authority in Permit MC 140986 Sub-9F, issued March 10, 1980, authorizing transportation, by motor vehicle, in interstate or foreign commerce, over irregular routes, of (1) *Insulating products*, from Denville, NJ, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture and sale of insulating products (except commodities in bulk), in reverse direction, under continuing contract(s) with Lamtec Corporation, of Denville, NJ. By the instant petition, petitioner seeks to modify the permit by (i) in (1) above adding Netcong and Stanhope, NJ, as origins points and (ii) to add Compac Corporation of Netcong, NJ as an additional shipper in (2) above.

MC 145399 (Sub-2) (M1F) (Notice of filing of petition to modify certificate), filed March 17, 1980. Petitioner: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul P. Watkins, Sr., P.O. Box 872, Atlanta, GA 30301. Petitioner holds a motor *common carrier* certificate in MC

145399 Sub 2F issued February 25, 1980, authorizing transportation over irregular routes, of *frozen foods*, from Los Angeles, Riverside, and Santa Ana, CA, to points in the U.S. (except AK, CA, and HI), restricted to the transportation of shipments originating at the facilities of Butcher Boy Food Products, Inc. By the instant petition, Petitioner seeks to modify the above authority by deleting the plantsite restriction.

Replications of Grants of Operating Rights Authority Prior to Certification—Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the *Federal Register*.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this *Federal Register* notice. Such pleading shall comply with Special rule 247(e) of the commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 142559 (Sub-76F) (2nd republication), filed December 13, 1978, published in the FR issues of February 1, 1979, and April 1, 1980, and republished this issue. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. A decision of the Commission, Review Board Number 2, decided October 18, 1979, and served November 1, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *scales, power transmission machinery, motors, motor controllers, elevators, escalators, food processing equipment, and telecommunications equipment*, and (2) *materials, equipment, and supplies*, used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), (a) between Cleveland, OH, and Lawrenceburg, KY,

on the one hand, and, on the other, Mishawaka, IN, Greenville and Spartanburg, SC, and Rogersville, TN, and points in CA, GA, KS, MA, NE, NV, NJ, NY, NC, OR, PA, TX, and WA, (b) from Mishawaka, IN, to Greenville, SC, and (c) from Columbiana, OH, to points in GA; restricted against the transportation of commodities which because of size or weight require the use of special equipment, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Permanent Authority Decisions Volume—Decision-Notice

Decided: May 15, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below, and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend

timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly 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 specifically 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, filed within 30 days of publication of this decision-notice [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 notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Liberman, Eaton, and Jensen. Member Jensen not participating.

MC 130639F, filed October 5, 1979.
Applicant: A-Z TOURS, INC., 21 Valley

View Drive, Mine Hill, NJ 07801.
Representative: Ronald I. Shapps, 450 Seventh Ave., New York, NY 10001. To engage in operations, in interstate or foreign commerce, as a *broker*, at Mine Hill, North Haledon, Pine Brook, and East Millstone, NJ, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the U.S. (except AK and HI). (Hearing site: Parsippany, NJ.)

MC 130814F, filed March 17, 1980.
Applicant: JAMES E. BOWERS, d.b.a. COLONIAL HOSTS, 758 Plain St., Marshfield, MA 02050. Representative: James E. Bowers (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Marshfield and Hyannis, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Plymouth and Barnstable Counties, MA, and extending to points in the U.S. (including AK, and HI). (Hearing site: Boston, MA.)

MC 130824, filed March 26, 1980.
Applicant: AIRPORT TRAVEL AGENCY, INC., 318 C Louisiana Ave., Perrysburg, OH 43551. Representative: Arthur R. Cline, 420 Security Building, Toledo, OH 43604. To engage in operations, in interstate or foreign commerce, as a *broker*, at Perrysburg, Napoleon and Toledo, OH, in arranging for transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in OH, MI and IN, and extending to points in the U.S. (including AK and HI). (Hearing site: Columbus, OH, or Detroit, MI.)

MC 130825F, filed March 24, 1980.
Applicant's name and address are POWERS TRUCKING & BROKERAGE, INC., 2332 South Peck Rd., Suite 275, Whittier, CA 90601. The name under which operations will be performed is POWERS TRUCKING & BROKERAGE, INC. Applicant is represented by Arlyn L. Westergren, in this proceeding, whose address is Suite 106, 7101 Mercy Road, Omaha, NE 68106. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: James L. Powers, Jr., executive officer, director, and stockholder, June F. Powers, secretary, director, and stockholder, and Andrew Krake, financial officer and director, whose addresses are the same as the applicant. The daily operations will be managed

by James L. Powers, Jr., whose business address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130827F, filed March 27, 1980. Applicant's name and address are ROGER A. TWAIT, 812 South Center Street, Plano, Illinois 60545. The name under which operations will be performed is ROGER A. TWAIT. Applicant is not represented in this proceeding. Following are the named and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders with their appropriate titles: Applicant is sole owner. The daily operations will be managed by Roger A. Twait whose business address is the same as applicant's. Applicant is not affiliated with any shipper or warehouse.

MC 130833F, filed March 27, 1980. Applicant: COSMOPOLITAN TRAVEL SERVICES, INC., 416 Essex St., Lawrence, MA 01842. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To engage in operations in interstate or foreign commerce, as a *broker*, at Lawrence, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the U.S. (including AK and HI). (Hearing site: Lawrence, MA.)

MC 130836F, filed April 1, 1980. Applicant: J. N. K. TEEN TOURS INC., d.b.a. NASSAU TEEN TOURS, 104 Hampshire Rd., Rockville Centre, NY 11570. Representative: Leonard Kreinices, 107 Northern Blvd., Great Neck, NY 11021. To engage in operations, in interstate or foreign commerce, as a *broker*, at Rockville Centre, NY, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in CT, MA, VA, FL, PA, and DC. (Hearing site: Nassau, or New York, NY.)

MC 130837F, filed April 1, 1980. Applicant: 20TH CENTURY TOURS, INC., 127 Aldrich Rd., Youngstown, OH 44515. Representative: David A. Baker (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Youngstown, OH, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in charter or special operations, between points in Ashtabula, Columbiana, Cuyahoga, Geauga, Mahoning, Portage, Stark, Summit and Trumbull Counties, OH, on the one hand, and, on the other, points in the United States (except AK and HI).

(Hearing site: Cleveland, OH, or Philadelphia, PA.)

MC 130844F, filed April 11, 1980. Applicant's name and address are J & D TRUCK BROKERAGE, 270 Falls Ave., West, Twin Falls, ID 83301. The name under which operations will be performed is J & D TRUCK BROKERAGE. Applicant is represented by itself. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Jean Burns, partner and manager, and Deck Hunter, "silent partner", whose addresses are the same as the applicant. The daily operations will be managed by Jean Burns, whose address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130845F, filed March 11, 1980. Applicant: BROOKS TRAVEL AGENCY, INC., d.b.a. ADVENTURE TRAVEL OF OCALA, 1515 E. Silver Springs Blvd., Suite 202 W, Ocala, FL 32670. Representative: Barbara B. Reid (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Ocala, FL, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in FL, and extending to points in the United States (including AK and HI). (Hearing site: Jacksonville, FL.)

MC 130847F, filed April 8, 1980. Applicant's name and headquarters address is INTERNATIONAL CUSTOMS SERVICE, INC., 2730 Monterey St., Torrance, CA 90503. International Customs Service, Inc., has operations in Los Angeles, New York, Chicago, San Francisco, Boston and Houston. Applicant is represented by Art Underdown in this proceeding whose address is 2730 Monterey St., Torrance, CA 90503. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Robert L. Waggoner, President, Director, and Shareholder, 2730 Monterey St., Torrance, CA 90503, Robert D. Rea, Senior Vice President, Director, and Shareholder, 175-11 148th Ave., Jamaica, NY 11434, Dolores G. Waggoner, Secretary and Director, 2730 Monterey St., Torrance, CA 90503, James A. Johnson, Vice President/Finance, Treasurer and Assistant Secretary, 2730 Monterey St., Torrance, CA 90503,

Arthur W. Underdown, Corporate Vice President, 2730 Monterey St., Torrance, CA 90503, Roscoe A. Jones, Vice President, 10400 Aviation Blvd., Los Angeles, CA 90045, Linda S. Jones, Assistant Secretary, 2730 Monterey St., Torrance, CA 90503, Leroy J. Dompke, Assistant Secretary, 5711 Jetero Blvd., Houston, TX 77205. The daily operations will be managed by the following employees at the listed business addresses: Roscoe Jones, 10400 Aviation Blvd., Los Angeles, CA 90045, Robert Rea, 175-11 148th Ave., Jamaica, NY 11434, David Sharpe, 4001 Fleetwood Ave., Franklin Park, IL 60131, Brigitte Beinhoff, 500 South Airport Blvd., South San Francisco, CA 94080, Dana Goodwin, Logan International Airfreight Terminal, E. Boston, MA 02128, and Lee Dompke, International Customs Service, Inc., 5711 Jetero Blvd., Houston, TX 77205. Applicant is affiliated with the following shipper or warehouse: None.

MC 130854F, filed April 8, 1980. Applicant's name and address are NAHC, INC., 16 Edgeboro Road, East Brunswick, NJ 08816. The name under which operations will be performed is NAHC, INC. Applicant is represented by Steven M. Tannenbaum in this proceeding whose address is 133 North 4th Street, Philadelphia, PA 19106. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Martin Shulman, President, Director and shareholder and Harry Shulman, Secretary, Treasurer, Director, and shareholder, (same address as applicant). The daily operations will be managed by Martin Shulman whose business address is 16 Edgeboro Road, East Brunswick, NJ 08816. Applicant is affiliated with the following shipper or warehouse: None.

MC 130864F, filed April 15, 1980. Applicant: PHILIP H. P. REED, 425 Central Park West, New York, NY 10025. Representative: Philip H. P. Reed (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at New York, NY, and Martha's Vineyard, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter operations, beginning and ending at New Bedford and Woods Hole, MA, and points in NY, and extending to points in the U.S. (including AK and HI). (Hearing site: New York, NY.)

MC 130865F, filed April 15, 1980. Applicant: COWAN TOURS, INC., 205 Dennis Ave., Raleigh, NC 27604.

Representative: Blonza B. Cowan (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Raleigh, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter operations, beginning and ending at points in Wake County, NC, and extending to points in the United States (including AK and HI). (Hearing site: Raleigh, NC.)

MC 130874F, filed March 28, 1980. Applicant's name and address are MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA, 17055. The name under which operations will be performed is CONSOLIDATED SHIPPERS AND MUMMA FREIGHT LINES. Applicant is represented by Jack Pearce, in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., NW, Washington, DC, 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Earl Mumma, Jr., sole shareholder, and President/Treasurer, and Ruth E. Mumma, Vice-President and Secretary, whose addresses are the same as the applicant. The daily operations will be managed by Earl Mumma, Jr., whose address is the same as the applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130875F, filed April 21, 1980. Applicant's name and address are FROST FREIGHT FORWARDING INC., P.O. Box 28, Billings, MT 59103. The name under which operations will be performed is FROST FREIGHT FORWARDING INC. Applicant is represented by Stephen F. Frost in this proceeding whose address is P.O. Box 28, Billings, MT 59103. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Stephen F. Frost, President, and Chairman of the Board of Directors, and shareholder, James Frost, Vice President, Director, and shareholder, Mary Frost, Secretary, Treasurer, Director, and shareholder, (same address as applicant). The daily operations will be managed by Stephen F. Frost, whose business address is P.O. Box 28, Billings, MT 59103. Applicant is affiliated with the following shipper or warehouse: None.

Freight Forwarder

FF 524F, filed December 10, 1979. Applicant: U.S. FREIGHT FORWARDER

CO., INC., 1495 Demo St., Memphis, TN 38116. Representative: A. Doyle Cloud, Suite 2008, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *freight forwarder*, in interstate commerce, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI). (Hearing site: Memphis, TN.)

FF 525F, filed March 6, 1980. Applicant: Z AND S ENTERPRISES, INC., d.b.a. U S C FREIGHT FORWARDER, 726 W. Cowles St., Long Beach, CA 90813. Representative: Patrick E. Quinn, 1718 Estrellita Circle, Chattanooga, TN 37421. To operate as a *freight forwarder*, in interstate commerce, in the transportation of *general commodities* (except commodities in bulk), from points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, to points in the U.S. (except AK and HI). (Hearing site: Los Angeles, CA.)

Permanent Ex-Water Authority Decision-Notices

Decided: May 15, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 F.R. 7965, as corrected at 44 F.R. 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the *Federal Register* publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly 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 specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (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 notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Liberman, Eaton, and Jensen. Member Jensen not participating.

MC 73533 (Sub-8F), filed March 4, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of Baltimore, MD, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 146162 (Sub-5F), filed March 26, 1980. Applicant: TRANSPORT EQUIPMENT CORP., 240 112th St., Hammond, IN 46320. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *general commodities*, (except classes A and B explosives) between points in the commercial zone of Chicago, IL, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Chicago, IL.)

MC 148154F, filed August 22, 1979. Applicant: DELMAS W. HEINKE, d.b.a. CRISIS TRANSPORTATION COMPANY, P.O. Box 1505, Houston, TX 77001. Representative: D. W. Heinke (same address as applicant). Transporting *general commodities* (except classes A and B explosives), between points in the commercial zones of (1) Houston, TX, (2) Galveston, TX, and (3) New Orleans, LA, restricted in (1), (2), and (3) to traffic having a prior or subsequent movement by water. (Hearing site: Houston or Dallas, TX.)

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Alabama Docket No. 17934, filed April 22, 1980. Applicant: ANNISTON MOTOR EXPRESS, INC., 2700 Republic Boulevard, Birmingham, AL 35214. Representative: JOHN W. COOPER, 200 Woodward Bldg., Birmingham, AL 35203. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities between all points within 30 miles of Anniston, AL, including Anniston. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Alabama Public Service Commission, P.O. Box 991, Montgomery, AL 36130, and should not be directed to the Interstate Commerce Commission.

California Docket No. 59637, filed May 6, 1980. Applicant: J. D. DRAYAGE CO., 2955 Third Street, San Francisco, CA 94107. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: 1. U.S. Highway 101, between Geyserville and Salinas; 2. Interstate Highway 280 and State Highway 82, between San Francisco and San Jose; 3. State Highways 9 and 85, between Los Gatos and Sunnyvale; 4. State Highway 17, between Oakland and Santa Cruz; 5. Interstate Highways 580, 205 and 5 between Oakland and Sacramento, inclusive; 6. State Highway 238, between its intersections with State Highway 17, near San Lorenzo and near Warm Springs; 7. State Highway 84 and Stanley Boulevard, between Pleasanton and Livermore; 8. Interstate Highway 680, between Fremont and Vallejo; 9. Interstate Highway 80, between San Francisco and Sacramento, including a radius of 30 miles from Sacramento; 10. State Highway 1, between Santa Cruz and Carmel; 11. State Highways 129 and 29, between Geyserville and Vallejo; 12. State Highway 68, between Salinas and Monterey; 13. State Highway 156 between its junction with U.S. Highway 101 and its junction with State Highway 152; 14. State Highway 152, between Gilroy and its intersection with State Highway 99 at Califa; 15. State Highway 59, between its intersection with State Highway 152 and Merced; 16. Interstate Highway 205 and State Highway 120, Between the junction of Interstate Highways 580 and 205, and Manteca; 17. Interstate Highway 5, between its intersection with Hammer Lane, approximately 7 miles north of the junction of Interstate Highway 5 and State Highway 4, and State Highway

140; 18. State Highway 140, between its junction with Interstate Highway 5 and State Highway 99; 19. State Highway 99, between Sacramento and Fresno; 20. Between all points and places within the County of Contra Costa; 21. Between all points and places set forth in Paragraphs 1 through 20 inclusive; and 22. Between all points and places on or within 5 miles laterally of the routes named in paragraphs 1 through 18, and 30 miles laterally of the route named in paragraph 19; 23. In performing the service herein authorized, carrier may make use of any and all streets, road, highways and bridges necessary or convenient for the performance of said service. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: 1. Used household goods, personal effects and office, store and institutional furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or Boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump trucks or in hopper-type trucks. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Logs. 8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. 9. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. 10. Portland or similar cements, in bulk or in packages, when loaded substantially to capacity either along or in combination with powdered limestone. 11. Bank bills, coin or

currency, deeds, drafts, jewelry, other than costume or novelty jewelry, notes or valuable papers of any kind; postage stamps or letters and packets of letters with or without postage stamps affixed; precious metals or articles manufactured therefrom; precious stones; revenue stamps, antiques; or other related or unrelated, old, rare, or precious articles of extraordinary value, nor any of such articles as premiums accompanying other articles. 12. Explosives, dangerous articles and other hazardous commodities as described in Motor Carriers' Explosive and Dangerous Articles Tariff 14, American Trucking Associations, Inc., Agent, MF-ICC 15. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed California Public Utilities Commission, State Bldg., Civic Center, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 800431-CCT, filed May 6, 1980. Applicant: A. M. TRANSFER & CRANE SERVICE, INC., 239 NW. 26th Street, Miami, FL 33127. Representative: Richard B. Austin, 320 Rochester Building, 8390 NW. 53d Street, Miami, FL 33166. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Commodities over irregular routes which by reason of size or weight require specialized handling or equipment between all points in Florida, in and south of the northern and western boundaries of Brevard, Orange, Polk, Hillsborough and Pinellas Counties, FL. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Bldg., 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 800300 CCT (amended), filed March 28, 1980. Applicant: BLACKBURN'S TRANSFER AND STORAGE, INC., d.b.a. GEE EL TRUCKING, 2500 S. Harbor City Blvd., P.O. Box 309, Melbourne, FL 32901. Representative: John A. Sutton, 1131 S. Orange Avenue, P.O. Box 367, Orlando, FL 32802. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: freight having a prior origin or destination by rail or ship at points in Brevard County, FL, on the one hand, to and from points and places within the State of Florida, on the other

hand. Restricted against the transportation of household goods, Class A and B explosives, commodities in bulk or liquid, also commodities which by size or weight require use of special equipment. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Building, 101 East Gaines Street, Tallahassee, FL, 32304, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-2620, filed April 21, 1980. Applicant: GOWANDA-BUFFALO TRANSPORTATION CO., INC. 133 Johnson Street, Gowanda, NY 14070. Representative: William J. Hirsch, 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between all points in Chautauqua, Erie, and Niagara Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 80-124-T, filed March 14, 1980. Applicant: L. A. CHITWOOD, INC., Stark Industrial Park, Charleston Heights, SC 29405. Representative: L. Robert Chitwood. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Cert. No. 373-A, commodities in general (except explosives, petroleum products in bulk and commodities requiring special equipment): Between points and places in Charleston County, and between points and places in Charleston Country and points and places within a radius of 30 miles of the City of Charleston. Cert. No. 439-E, houses and buildings (whole and dismantled); Between points and places in South Carolina upon call or demand; heavy machinery and large or bulky articles requiring special riggings and/or equipment to load or transport, and smaller machinery and/or equipment, and articles in connection with the moving of heavy machinery and large or bulky articles: Between points and places in South Carolina upon call or demand; telephone and power poles, including necessary equipment to install telephone and power lines: Between points and places in South Carolina

upon call or demand. Cert. No. 507-B, road machinery and road contractors' equipment, lumber, poles and water proponent: Between points and places in South Carolina. Applicant is seeking authority to continue operations in interstate commerce under the aforesaid certificates authorized under MC 97633, Sub-No. 2. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 80-129-T, filed March 20, 1980. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 2726, Savannah, GA 31402. Representative: Robert L. Stoddard, P.O. Box 5178, Spartanburg, SC 29304. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (except articles of unusual value, class A and B explosives, household goods, commodities in bulk, and commodities because of size and weight requiring use of special equipment) from Lugoff, Charleston, Florence, Moncks Corner, Pontiac, and Strawberry, SC to points and place in South Carolina under contract with E. I. du Pont de Nemours and Company. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Public Service Commission of South Carolina, 8th Floor Owen Bldg., P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Decisions, Decision-Notice, Substitution Applications: Single-Line, Service for Existing Joint-Line Service

Decided: May 9, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting

party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified 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, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly 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 specifically 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (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 notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Felder.

MC 120098 (Sub-36F), filed December 27, 1979. Applicant: UINTAH FREIGHTWAYS, a corporation, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: Dan E. England, 975 West 2100 South, Salt Lake City, UT 84119. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, 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 Craig and Denver, CO, over U.S. Hwy 40, serving all intermediate points. (Hearing site: Salt Lake City, UT.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations. Applicant intends to tack the authority in this proceeding with its existing authority.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 37327 (Sub-E2), filed October 16, 1978. Applicant: PENN-EMPIRE TRANSPORT, INC., Box 517, Jamestown, NY 14701. Representative: R. A. Beckstrom, President (same as above), and Ronald W. Malin Johnson, Peterson, Tener & Anderson, Bankers Trust Bldg., Jamestown, NY 14701. (1) *New furniture*, from points in Chautauqua County, NY, to Washington, DC, Baltimore, MD, Wheeling, WV, and points in PA, NJ, NY, CT, RI and MA. (2) *New furniture*, from points in Cattaraugus County, NY to Washington, DC, Baltimore, MD, Wheeling, WV, and points in PA, NJ, NY, CT, RI and MA. (3) *New furniture*, (1) from points in Madison and Monroe Counties, NY, to Washington, DC, Baltimore, MD, Wheeling, WV, and points in PA, NJ, NY, CT, RI, MA; (2) from points in Chenango, Clinton, Columbia, Delaware, Essex, Franklin, Greene, Hamilton, Herkemer, Jefferson, Lewis, Livingston, Montgomery, Oswego, Otsego, St. Lawrence, Saratoga, Schoharie, Washington, Wyoming and Yates Counties, NY, to points named as destination States in (1) above. (Gateway eliminated: Jamestown, NY.)

MC 83539 (Sub-E-91), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas,

Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles*, as described in Appendix V to the report of the Commission in *Descriptions on Motor Carrier Certificates*, 61 M.C.C. 209, from all points in ID to points in the KS South and East of a line beginning at the KS-MO State Line extending along I Hwy 70 to Junction U.S. Hwy 81, then along U.S. Hwy 81 to the KS-OK State Line. (Eliminate the gateways: points in MT West of a line extending North and South through Dupuyer and Butte, and the facilities of the CFNI Steel Corporation, at Pueblo, CO.)

MC 83539 (Sub-E-99), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles*, as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in ND (except points in the Counties of Barnes, Cass, Ransom, Richland and Sargent), to points in OK north of I Hwy 40. (Eliminate the gateway: the facilities of the CFNI Steel Corporation, at Pueblo, Co.)

MC 83539 (Sub-E-106), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles*, as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) from WY to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX and VA; and (2) from points in WY (except points in the Counties of Teton, Lincoln, Uinta, Fremont, Sublette, Sweet Water and Carbon), to points in NM (except points in the County of San Juan). (Eliminate the gateway: the facilities of CFNI Steel Corporation at Pueblo, CO.)

MC 83539 (Sub-E-126), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles*, as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in and East of the Counties of Laramie, Weld, Morgan, Washington, and Kit Carson), to points in IN, IL, MI, and MO. (Eliminate the gateway: the facilities of the CF&I Steel Corporation, at Pueblo, CO.)

MC 83539 (Sub-E-141), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles*, as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in CA (except points in and south of the Counties of Sonoma, Napa, Yolo and Placer), to points in NM (except points on, West and South of a line beginning at CO-NM State line extending along I Hwy 25 to Junction U.S. Hwy 84, then along U.S. Hwy 84 to Junction I Hwy 40, then along I Hwy 40 to Junction U.S. Hwy 54, then along U.S. Hwy 54 to Junction U.S. Hwy 285, then along U.S. Hwy 285 to Junction U.S. Hwy 82, then along U.S. Hwy 82 to Junction NM Hwy 529, then along NM Hwy 529 to Junction U.S. Hwy 62-180, then along U.S. Hwy 62-180 to the NM-TX State line. (Eliminate the gateways: points in UT, and the facilities of the CF&I Corporation at Pueblo, CO.)

MC 83539 (Sub-E-144), filed May 28, 1975. Applicant: C & H TRANSPORTATION CO., INC., 2010 W. Commerce St., P.O. Box 5976, Dallas, Texas 75222. Representative: Kenneth Weeks (same as above). *Iron and steel articles*, as described in Appendix V to the report of the Commission in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in MT to points in IL (except points on and North of I Hwy 70). (Eliminate the gateway: the facilities of CF&I Steel Corporation, at Pueblo, CO.)

MC 113651 (Sub-E26), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 N. Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 S. La Salle St., Chicago, IL 60604. *Frozen meats*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles), from the facilities of Armour & Co., at Worthington and Mankato, MN, to points in NJ, PA, DE, points in WV on and west of US Hwy 219, and New York, NY, and its commercial zone. Restriction: shipments must originate at the facilities of Armour & Co., at Worthington and Mankato, MN. (Gateway eliminated: Louisville, KY.)

MC 113651 (Sub-E29), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 N. Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 S. La Salle St., Chicago, IL 60604. *Meats*,

meat products, and meat by-products, as described in Section A of Appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the facilities of Armour & Co., at Worthington, MN, to points in NJ, PA, DE, points in WV on and west of US Hwy 219, and New York, NY, and its commercial zone. Restriction: Shipments must originate at the facilities of Armour & Co., at Worthington, MN. (Gateway eliminated: Jeffersonville, IN. Louisville, KY, commercial zone.)

MC 113855 (Sub-E429) (correction), filed August 2, 1976, published in the *Federal Register* June 7, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, ND 58102. *Metal and metal articles*, (1)(a). . . . The purpose of correction is to reflect correct commodity description.

MC 115840 (Sub-E119), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT, INC., P.O. Box 10327, Birmingham, AL 35202. Representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, DC 20001. (1) *Aluminum pipe, aluminum valves, and aluminum hydrants* which because of size or weight require the use of special equipment, and (2) *aluminum fittings, and aluminum gaskets* (except in bulk), when their transportation is incidental to the transportation of the commodities named in (1) above, (1) between points in GA, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, MT, UT, WY, CO, NM, TX, ND, SD, NE, KS, OK, CA, AR and MO; (2) between points in FL, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, MT, UT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, WI, IL, IN, KY, MI, TN, and OH; (3) between points in LA, on the one hand, and, on the other, points in CA, OR, WA, IN, OH, ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, WV, VA, MD, NC and SC; (4) between points in MS, on the one hand, and, on the other, points in CA, WA, ID, NV, MN, ME, NH, VT, MA, RI, CT, NJ, DE, and MO; and (5) between points in TN, on the one hand, and, on the other, points in CA, OR, WA, NV, TX, NM, AZ, CO, UT and WY. (Gateways eliminated: Holt and Birmingham, AL.)

MC 115840 (Sub-E121), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, AL 35202. Representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, DC 20001. *Iron and steel pipe, fittings and gaskets, and iron castings* (except commodities in bulk,

restricted against the transportation of commodities which because of size or weight require the use of special equipment), from Florence and Sheffield, AL, to points in MD, DE, CT, RI, MA, NH, VT, ME, ND, SD, MT, WY, CO, NM, ID, UT, AZ, WA, OR, NV, CA, points in CA on and south of LA Hwy 15, and points in TX on and south of a line beginning at the LA-TX State line extending along US Hwy 80 to junction US Hwy 69, then along US Hwy 69 to the OK-TX State lines. (Gateway eliminated: Holt, AL.)

MC 115826 (Sub-E70), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William H. Sharon, Suite 501, 1730 M Street NW., Washington, DC 20036. *Malt beverages*, from points in CO on and east of a line beginning at the CO-NM state line and extending along I Hwy 25 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the western boundary of Jefferson County, then along the western boundary of Jefferson County to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 119, then along CO Hwy 119 to the northern boundary of Gilpin County, then along the northern boundary of Gilpin County to the western boundary of Boulder County, then along the western boundaries of Boulder and Larimer Counties to junction of Larimer County and U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 287, then along U.S. Hwy 287 to the CO-WY state line including all points in the commercial zones of all cities lying along the above-described line, to Fresno and points in Tulare, Merced, Stanislaus, Napa, Butte, Kern, Ventura, Santa Barbara, San Luis Obispo and Monterey Counties, CA. (Gateway eliminated: Golden, CO.)

MC 116073 (Sub-E43), filed March 27, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, 1825 Main Ave., Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Trailers* designed to be drawn by passenger automobiles, in secondary movements, and *buildings*, in sections, mounted on wheeled undercarriages, from points in AZ on, south and west of a line beginning at the AZ-NM State line extending along I Hwy 40 to junction US Hwy 89, then along US Hwy 89 to the AZ-UT State line, to points in CO. (Gateways eliminated: points in NM.)

MC 117574 (Sub-E141), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: William A. Chesnett, P.O. Box 1166, Harrisburg, PA 17108.

(A)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes and shovels*, and (2) *attachments and parts* for the commodities described in (1) above, which are also, agricultural implements and agricultural machinery, tractors with or without attachments, cranes, industrial and processing machinery, and attachments, accessories, and parts of all of the above described commodities, between Newport News, VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restriction: Restricted in each instance to the transportation of traffic which either (a) originates at or is destined to the facilities of Leibherr-America, Inc., and Leibherr Crane Corporation at Newport News, VA, or (b) has an immediately prior movement by water. (Gateway eliminated: facilities of Frick Company, Inc. at Waynesboro, PA.) (B)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes and shovels*, and (2) *attachments and parts* for the commodities described in (1) above, which are also, (a) agricultural, industrial, and construction machinery and equipment (except tractors with vehicle beds, bed frames and fifth wheels), (b) such merchandise as is dealt in by recreational, lawn and garden dealers, or, (c) trailers (except those designed to be drawn by passenger automobiles), from Newport News, VA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. Restriction: Restricted to the transportation of traffic which either (a) originates at the facilities of Leibherr-America, Inc., or Leibherr Crane Corporation at Newport News, VA, or (b) has an immediately prior movement by water. (Gateway eliminated: facilities of Sperry Rand Corporation, New Holland Division, at Mountville, PA.)

(C)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes, and shovels*, and (2) *attachments and parts* for the commodities described in (1) above, which are also, Stone crushing equipment or automatic loading equipment, between Newport News, VA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. Restriction: Restricted in each instance to the transportation of traffic which either (a) originates at or is destined to the facilities of Leibherr-America, Inc., or Leibherr Crane Corporation, at Newport News, Virginia, or (b) has an immediately prior movement by water. (Gateway eliminated: Galin, OH.)

(D)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes, backhoes and shovels*, and (2) *attachments and parts* for the commodities described in (1) above, which are also, commodities which because of size or weight require the use of special equipment, or self-propelled articles each weighing 15,000 pounds or more, or related machinery, tools, parts and supplies moving in connection therewith or building and contractor's equipment, supplies and materials, between Baltimore, MD, and points and places within 25 miles thereof, on the one hand, and, on the other, all points in AL, AR, FL, GA, LA, MS, SC, and TX, and those points in KS on and west of a line commencing at the KS-OK State line on Interstate Hwy 35, thence along Interstate 35 to its junction with U.S. Hwy 81, thence along U.S. 81 to the KS-NE State line, those points in NE on and west of a line commencing at the KS-NE State line on U.S. Hwy 83, thence along U.S. 83 to the NE-SD State line, those points in NC on and south of a line commencing at the NC-VA State line on U.S. Hwy 258, thence in a southwesterly direction along U.S. 258 to its junction with U.S. Hwy 13, thence along U.S. 13 to its junction with U.S. Hwy 401, thence along U.S. 401 in a westerly direction to its junction with U.S. Hwy 74, thence along U.S. 74 to its junction with NC Hwy 51, thence in a southerly direction along NC 51 to its junction with the NC-SC State line, those points in ND on and west of a line commencing at the ND-SD line on U.S. Hwy 83, thence along U.S. Hwy 83 to the U.S.-Canadian Border, those points in OK on and south of a line commencing at the MI-OK state line on U.S. Hwy 60, thence along U.S. 60 to its junction with U.S. Hwy 77, thence in a northerly direction along U.S. 77 to the KS-OK State line, those points in SD on and west of a line commencing at the NE-SD State line on U.S. Hwy 83, thence along U.S. 83 to the ND-SD State line, and those points in Tennessee on and west of a line commencing at the Alabama-Tennessee State line on U.S. 231, thence along U.S. 231 to its junction with U.S. Hwy 64, thence along U.S. 64 to its junction with Tennessee Hwy 13, thence in a northerly direction along U.S. 70, thence in a westerly direction along U.S. 70 to its junction with Tennessee Hwy 69, thence in a northwesterly direction along Tennessee 69 to the KY-TN State line. Restriction: Restricted to shipments having an immediately prior movement by water. (Gateway eliminated: Newport News, VA.)

(E)(1) *Power cranes, tractors* (except truck tractors), *self-propelled cranes,*

backhoes and shovels, and (2) *attachments and parts* for the commodities described in (1) above, when such commodities are also, agricultural implements, agricultural machinery, tractors (other than truck tractors), incidental machinery, attachments and parts when moving with such implements, machinery, or tractors, and trailers for the transportation of the above named commodities (other than those designed to be drawn by passenger automobiles), and except commodities requiring special equipment, (a) between Charleston, SC, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, PA, MD, DE, NJ, NY and those points in VA on and north of a line commencing at the Atlantic Ocean on the NC-VA State line, thence in a westerly direction along said state line to its junction with VA Hwy 35, thence in a northerly direction along VA route 35 to its junction with U.S. Hwy 301, thence in a northerly direction along U.S. 301 to its junction with U.S. Hwy 60, thence along U.S. 60 to its junction with U.S. Hwy 522, thence along U.S. 522 in a northwesterly direction to its junction with U.S. Hwy 33, thence in a westerly direction along U.S. 33 to the VA-WV State line. (b) Between Savannah, GA, on the one hand, and, on the other, points in ME, NH, VT, CT, MA, RI, MD, DE, NJ, NY, and those points in NC in the NC Counties of Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans, points in PA on, east, and north of U.S. Hwy 40, and those points in VA on and north of a line commencing at the NC-VA State line on VA Hwy 35, thence in a northerly direction along VA 35 to its junction with U.S. 301, thence along U.S. 301 to its junction with U.S. Hwy 60, thence in a westerly direction along U.S. 60 to its junction with U.S. Hwy 522, thence in a northwesterly direction along U.S. 522 to its junction with U.S. Hwy 33, thence in a westerly direction along U.S. 33 to the VA-WV State line. (c) Between Jacksonville, FL, on the one hand, and, on the other, all points in ME, NH, VT, MA, CT, RI, NJ, NY, PA, DE, MD and those points in NC in the Counties of Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans, and points in VA on, east and north of a line commencing at the NC-VA State line on VA Hwy 35, thence in a northerly direction along VA 35 to its junction with U.S. 301, thence along U.S. 301 to its junction with U.S. 250, thence along U.S. 250 in a westerly direction to its junction with U.S. 340, thence along U.S. 340 in a northerly direction to its junction with U.S. 33, thence along U.S.

33 to the VA-WV State line. (d) Between Wilmington, NC, on the one hand, and, on the other, all points in CT, DE, IA, ME, MD, MN, NE, NH, NJ, NY, ND, PA, RI, SD, VT, WI and DC and those points in IL on and north of a line commencing at the IL-IN State line on U.S. Highway 150, thence in a westerly direction along U.S. 150 to its junction with Interstate Hwy 72 thence along Interstate 72 to its junction with IL Hwy 47, thence in a southwesterly direction along IL 47 to its junction with U.S. Hwy 36, thence in a westerly direction along U.S. Hwy 36 to its junction with U.S. Hwy 54, thence along U.S. Hwy 54 to the IL-MI State line, those points in IN on and north of a line commencing at the IN-OH State line on U.S. Hwy 33, thence along U.S. 33 to its junction with U.S. Hwy 224, thence along U.S. Hwy 224 in a westerly direction to its junction with U.S. Hwy 24, thence along U.S. 24 to its junction with IN Hwy 25 to its junction with Interstate Hwy 74, thence along Interstate 74 to the IL-IN State line, those points in KS on and north of a line commencing at the KS-MI State line on U.S. Hwy 54, thence in a westerly direction along U.S. 54 to its junction with KS Hwy 99, thence along KS 99 in a southerly direction to its junction with U.S. Hwy 166, thence along U.S. 166 to its junction with U.S. Hwy 77, thence in a southerly direction along U.S. 77 to the KS-OK State line, those points in Missouri on and north of a line commencing at the IL-MI State line on U.S. Hwy 54, thence in a westerly direction along U.S. 54 to the KS-MI State line, those points in OH on and north of a line commencing at the OH-WV State line on OH route 60, thence in a northwesterly direction along OH 60 to its junction with OH Hwy 37, thence along 37 to its junction with OH route 13, thence along OH Hwy 13 to its junction with OH Hwy 95, thence in a westerly direction along OH 95 to its junction with U.S. Hwy 23, thence in a northerly direction along U.S. 23 to its junction with U.S. 30N, thence along U.S. 30N to the IN-OH State line, those points in OK on and north of KS line commencing at the OK-KS State line on U.S. Hwy 81, thence in a southerly direction along U.S. 81 to its junction with U.S. 60, thence in a westerly direction along U.S. 60 to the OK-TX State line on U.S. Hwy 60, thence in a westerly direction along U.S. 60 to its junction with TX Hwy 70, thence in a southerly direction along TX 70 to its junction with U.S. 62, thence along U.S. 62 to the NM-TX State line, those points in VA on, east and north of a line commencing at the NC-VA State line on VA Hwy 35, thence along VA 35 in a

northerly direction to its junction with Interstate Hwy 95, thence in a northerly direction along Interstate 95 to its junction with U.S. Hwy 33, thence along U.S. 33 to the VA-WV State line, and those points in WV on and north of a line commencing at the VA-WV State line on U.S. 33, thence in a westerly direction along U.S. 33 to its junction with U.S. Hwy 250, thence in a westerly direction along U.S. 250 to its junction with U.S. Hwy 50, thence in a westerly direction along U.S. 50 to its junction with U.S. Alternate Route 50, thence in a northerly direction along U.S. Alternate Route 50 to the OH River and the OH-WV State line. Restriction: Restricted to traffic having an immediately prior movement by water. (Gateway eliminated: Newport News, VA.)

MC 117574 (Sub-EL142), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (A) *commodities*, the transportation of which because of size or weight, require the use of special equipment, and related materials, supplies and parts of such commodities when their transportation is incidental thereto, and, (B) *self-propelled articles* each weighting 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, restricted to the transportation of self-propelled articles transported on trailers. (1) between points in Lagrange County, IN, on the one hand, and, on the other, points in KY, PA and WV. (2) between points in Steuben County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in IL on and south of a line commencing at MI-IL State line along US Hwy 24 in an easterly direction to IL Hwy 125, then along IL Hwy 125 in an easterly direction to its junction with IL Hwy 29, then along IL Hwy 29 in a northeasterly direction to its junction with IL Hwy 16, then along IL Hwy 16 in an easterly direction to its junction with US Hwy 150, then along US Hwy 150 in an easterly direction to the IL-IN State line. (3) between points in St. Joseph County, IN, on the one hand, and, on the other, points in PA and WV. (4) between points in Cass and Miami Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at Albany, along US Hwy 127 then, in an northerly direction along US Hwy 127 to the KY-OH State line; and points in that part of MI on and east of a line commencing at Detroit, MI on and east of a line commencing at Detroit, MI along I Hwy 75, then in a northwesterly

direction along I Hwy 75 to Bay City, MI, (5) between points in Benton and White Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at the TN-KY State line along US Hwy 127 to its junction with Kentucky Hwy 34, thence in a northeasterly direction along KY Hwy 34 to its junction with US Hwy 27, thence in a northerly direction along US Hwy 27 to its junction with I Hwy 75 to the KY-OH State line in a northerly direction along US Hwy 23 to its junction with US Hwy 10, then in an easterly direction along US Hwy 10 to its junction with Michigan Hwy 247, then in a northerly direction along MI Hwy 247 to Saginaw Bay, MI, (6) between points in Whitley County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in MI on and east of I Hwy 94, (7) between points in Noble County, IN, on the one hand, and, on the other, points in KY, PA and WV, (8) between points in DeKalb County, IN, on the one hand, and, on the other, points in KY, PA, WV, points in MI on and east of I Hwy 75 and I Hwy 94, (9) between points in Fulton and Pulaski Counties, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line beginning at the TN-KY State line in a northerly direction along KY Hwy 61 to its junction with KY Hwy 55, then in a northerly direction along KY Hwy 55 to its junction with US Hwy 62, then in an easterly direction along US Hwy 62 to its junction with US Hwy 127, then in a northerly direction along US Hwy 127 to its junction with KY Hwy 14, then in a westerly direction along KY Hwy 14 to the IN-KY State line; and points in that part of MI on and east of a line commencing at Detroit, MI, in a northerly direction along MI Hwy 53 to Lake Huron, MI, (10) between points in Kaskaskia County, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at the KY-TN State line along I Hwy 65 in a northeasterly direction to its junction with US Hwy 62, then along US Hwy 62 in an easterly direction to its junction with KY Hwy 55, then along KY Hwy 55 in a northerly direction to its junction with US Hwy 421, then along US Hwy 421 to the KY-IN State line and points in that part of MI on and east of a line commencing at the OH-MI State line along US Hwy 24 in a northeasterly direction to Detroit, MI, (11) between points in Allen County, IN, on the one hand, and, on the other, points in KY, PA, WV and points in MI on and east of a line commencing at the MI-OH State line along I Hwy 75, then along I Hwy 75 in a northeasterly

direction to its junction with I Hwy 94, then along I Hwy 94 in a northeasterly direction to port Huron, MI, (12) between points in Huntington and Wabash Counties, IN, on the one hand, and, on the other, points in PA, WV points in KY on and east of a line commencing at the TN-KY State line in a northerly direction along U.S. Hwy 31-E to its junction with U.S. Hwy 62, then in an easterly direction along U.S. Hwy 62 to its junction with US Hwy 127, then in a northerly direction along U.S. Hwy 127 to Warsaw, and points in that part of MI on and east of a line commencing at the MI-OH State line in a northerly direction along U.S. Hwy 23 to its junction with MI Hwy 14, then in an easterly direction along MI Hwy 14 to its junction with U.S. Hwy 24, then in a northerly direction along U.S. Hwy 24 to its junction with MI Hwy 24, then in a northerly direction along MI Hwy 24 to its junction with MI Hwy 46, then in an easterly direction along MI Hwy 46 to its junction with MI Hwy 53, then in a northerly direction along MI Hwy 53 to Lake Huron, (13) between points in Wells County, IN, on the one hand, and, on the other, points in KY, PA, WV, and MI on and east of I Hwy 94, (14) between points in Fountain and Fippicanoe Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at the KY-TN State line along U.S. Hwy 127 in a northerly direction to its junction with I Hwy 71, then in a northerly direction to the KY-OH State line, and points in that part of MI on and east of a line commencing at the OH-MI State line along I Hwy 75 in a northeasterly direction to its junction with MI Hwy 53, then along MI Hwy 63 in a northerly direction to its termination at Bad Axe, MI, (15) between points in Warren County, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at the TN-KY State line in a northerly direction along U.S. Hwy 127 to its junction with KY Hwy 34, then in an easterly direction along KY Hwy 34 to its junction with U.S. Hwy 27, then in a northerly direction along U.S. Hwy 27 to its junction with I Hwy 75, then in a northerly direction along I Hwy 75 to the KY-OH State line; and points in that part of MI on and east of a line commencing at the MI-OH State line in a northerly direction along U.S. Hwy 23 to its junction with U.S. Hwy 10, then in an easterly direction along I Hwy 10 to its junction with MI Hwy 247, then in a northerly direction along MI Hwy 247 to its termination at Saginaw Bay, MI, (16) between points in Adams County, IN, on

the one hand, and, on the other, points in KY, PA, WV, and points in MI on and east of I Hwy 94, (17) between points in Jay County, IN, on the one hand, and, on the other, points in KY, PA, WV, and points in MI on and north, and west of a line commencing at the MI-OH State line in a northerly direction along U.S. Hwy 23 to its junction with I Hwy 96, then in a northwesterly direction along I Hwy 96 to Lake Michigan, (18) between points in Delaware County, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of U.S. Hwy 127, and points in MI on and east of I Hwy 75, (19) between points in Randolph County, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at Albany, KY, along U.S. Hwy 127, then in a northerly direction along U.S. Hwy 127 to the KY-OH State line and points in that part of MI on and east of a line commencing at Detroit, MI, along I Hwy 75, then in a northwesterly direction along I Hwy 75 to Bay City, MI, (20) between points in Hamilton and Madison Counties, IN, on the one hand, and, on the other, points in PA, WV and points in KY on and east of a line commencing at the TN-KY State line in a northerly direction along KY Hwy 61 to its junction with KY Hwy 55, then in a northerly direction along KY Hwy 55 to its junction with U.S. Hwy 150, then in an easterly direction along U.S. Hwy 150 to its junction with U.S. Hwy 68, then in a northeasterly direction along U.S. Hwy 68 to its junction with U.S. Hwy 127, then in a northerly direction along U.S. Hwy 127 to the KY-OH State line; and points in that part of MI on and east of a line commencing at the MI-OH State line in a northerly direction along U.S. Hwy 127 to its junction with MI Hwy 36, then in a northeasterly direction along MI Hwy 36 to its junction with U.S. Hwy 27, then in a northerly direction along U.S. Hwy 27 to its junction with U.S. Hwy 10, then in a westerly direction along U.S. Hwy 10 to its junction with MI Hwy 37, then in a northerly direction along MI Hwy 37 to Grand Traverse Bay, MI, (21) between points in Boone and Hendricks Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at the KY-TN State line along U.S. Hwy 27 in a northerly direction to its junction with U.S. Hwy 68, then along U.S. Hwy 68 in a northerly direction to the KY-OH State line, and points in that part of MI on and east of a line commencing at the MI-OH State line along US Hwy 127 in a northerly direction to its junction with MI Hwy 20, then along MI Hwy 20 in an easterly direction to its termination at

Midland, MI, (22) between points in Wayne County, IN, on the one hand, and, on the other, points in KY, MI, PA and WV, (23) between points in Johnson and Shelby Counties, IN, on the one hand, and, on the other, points in PA and WV, points in MI on and east of US Hwy 75, and points in KY on and east of a line commencing at KY Hwy 40, then in a westerly direction along KY Hwy 40 to its junction with US Hwy 460, then in a westerly direction along US Hwy 460 to its junction with Kentucky Hwy 11, then in a northerly direction, along KY Hwy 11 to the KY-OH State line. (24) between points in Clay and Vigo Counties, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at the KY-TN State line along US Hwy 25-E in a northwesterly direction to I Hwy 75, then along I Hwy 75 in a northerly direction to the KY-OH State line, and points in that part of MI on and east of a line commencing at the OH-MI State line along US Hwy 127 in a northerly direction to its junction with US Hwy 27, then along US Hwy 27 in a northerly direction to its junction with I Hwy 75, then along I Hwy 75 in a northerly direction to Sault Saint Marie, MI, (25) between points in Rush County, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at the TN-KY State line in a northerly direction along US Hwy 127 to its junction with KY Hwy 34, then in a northeasterly direction along KY Hwy 34 to its junction with US Hwy 27, then in a northerly direction along US Hwy 27 to its junction with US Hwy 68, then in a northeasterly direction along US Hwy 68 to the KY-OH State line, and points in that part of MI on, north, and east of a line commencing at the MI-OH State line in a northerly direction along US Hwy 127 to its junction with I Hwy 96, then in a northwesterly direction along I Hwy 96 to Lake MI, (26) between points in Bartholomew and Brown Counties, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at the KY-VA State line in a northerly direction along US Hwy 460 to its junction with KY Hwy 201, then in a northerly direction along KY Hwy 201 to its junction with KY Hwy 32, then in a northwesterly direction along KY Hwy 32 to its junction with KY Hwy 11, then in a northerly direction along KY Hwy 11 to the KY-OH State line and points in that part of MI on, north, and east of a line commencing at the MI-IN State line in a northerly direction along US Hwy 27 to its junction with MI Hwy 115, then in a northwesterly direction along MI Hwy

115 to its junction with MI Hwy 37, then in a northerly direction along MI Hwy 37 to Grand Traverse Bay, MI, (27) between points in Franklin County, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at KY Hwy 40, then in a westerly direction along KY Hwy 40 to its junction with US Hwy 460, then in a westerly direction along US Hwy 460 to its junction with KY Hwy 11, then in a northerly direction along KY Hwy 11 to the KY-OH State line, and points in that part of MI on and east of a line commencing at Detroit, MI, along US Hwy 75, then in a northerly direction along US Hwy 75 to Bay City, MI, (28) between points in Decatur County, IN, on the one hand, and, on the other, points in MI, PA and WV, (29) between points in Daviess and Knox Counties, IN, on the one hand, and, on the other, points in PA, WV, points in KY on and east of a line commencing at Middleboro, KY along US Hwy 25, then in a northerly direction along US Hwy 25 to the KY-OH State line and points in that part of MI on and east of a line commencing at Detroit, MI along Interstate Hwy 96, then in a northerly direction along I 96 to its junction with US Hwy 27, then in a northerly direction along US 27 to its junction with MI Hwy 115, then in a northwesterly direction along MI Hwy 115 to Lake Michigan, (30) between points in Dubois and Martin Counties, IN, on the one hand, and, on the other, points in PA, WV, and points in KY on and east of a line commencing at Middleboro, KY, along US Hwy 25, then in a northerly direction along US Hwy 25 to the KY-OH State line, and points in that part of MI on and east of a line commencing at Detroit, MI, along I Hwy 96, then in a westerly direction along I Hwy 96 to its junction with US Hwy 27, then in a northerly direction along US 27 to its junction with MI Hwy 115, then in a northwesterly direction along MI Hwy 115 to Lake Michigan, (31) between points in Lawrence and Orange Counties, IN, on the one hand, and, on the other, points in PA and points in MI on and east of a line commencing at the MI-IN State line in a northerly direction along MI Hwy 66 to its junction with MI Hwy 57, then in a westerly direction along MI Hwy 57 to its junction with MI Hwy 46, then in a westerly direction along MI Hwy 46 to its termination at Lake Michigan, and points in that part of WV on and east of a line commencing at the WV-VA State line in an easterly direction along WV Hwy 83 to its junction with WV Hwy 80, then in a northerly direction along WV Hwy 80 to its junction with US Hwy 52, then in a northwesterly direction along

US Hwy 52 to its junction with US Hwy 119, then in a northerly direction along US Hwy 119 to its junction with WV Hwy 10, then in a northwesterly direction along WV Hwy 10 to the WV-OH State line. (32) between points in Jefferson and Jennings Counties, IN, on the one hand, and, on the other, points in MI, PA, WV, points in KY on and east of a line commencing at the KY-VA State line extending along US Hwy 460 to junction KY Hwy 201, then along KY Hwy 201 to junction KY Hwy 1, then in a northerly direction along KY Hwy 1 to its junction with KY Hwy 7, then in a northwesterly direction along KY Hwy 7 to its junction with KY Hwy 24, then in a northwesterly direction along KY Hwy 24 to its junction with KY Hwy 59, then in a northerly direction along KY Hwy 59 to the KY-OH State line. (33) between points in Jackson and Washington Counties, IN, on the one hand, and, on the other, points in PA and points in MI on, north, and east of a line commencing at the MI-IN State line in a northerly direction along MI Hwy 66 to its junction with MI Hwy 57, then in a westerly direction along MI Hwy 57 to its junction with MI Hwy 46, then in a westerly direction along MI Hwy 46 to its termination at Lake MI and points in that part of WV on, north, and east of a line commencing at the WV-VA State line in an easterly direction along WV Hwy 83 to its junction with WV Hwy 80, then in a northerly direction along WV Hwy 80 to its junction with US Hwy 52, then in a northwesterly direction along US Hwy 52 to its junction with US Hwy 119, then in a northerly direction along US Hwy 119 to its junction with WV Hwy 10, then in a northwesterly direction along WV Hwy 10 to the WV-OH State line. (34) between points in Posey and Vanderburgh Counties, IN, on the one hand, and, on the other, points in PA, WV, Ashland, KY; and points in MI on and east of a line commencing at the IN-MI State line along US Hwy 12, then in a westerly direction along US Hwy 12 to its junction with US Hwy 131, then in a northerly direction along US Hwy 131 to its junction with MI Hwy 37, then in a northerly direction along MI Hwy 37 to its junction with US Hwy 10, then in a westerly direction along US Hwy 10 to Ludington, MI, and (35) between points in Ripley County, IN, on the one hand, and, on the other, points in MI, PA, WV and points in KY on and east of US Hwy 23. (Gateway eliminated: Columbus, OH, and points within 80 miles thereof.)

MC 118831 (Sub-E155), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263.

Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. *Liquid petrochemicals*, in bulk, in tank vehicles, between Orangeburg, SC, on the one hand, and, on the other, points in SC on and west of a line beginning at North Augusta extending along US Hwy 25 to Greenwood, then along US Hwy 178 to the NC-SC State line. (Gateway eliminated: Richmond County, GA.)

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-17173 Filed 6-5-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C. this 3rd day of June 1980.

Earl T. Klein,

Director, Office of Program Services.

Applications received during the week ending June 7, 1980.

Name of applicant and Location of Enterprise
Smatco, Inc., Houma, Louisiana.

Principal Product or Activity

Design and construction of industrial capacity winches and pressure tanks.

[FR Doc. 80-17178 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

Extended Benefits; Notice of Ending of Extended Benefit Period in the State of New Jersey

This notice announces the ending of the Extended Benefit Period in the State of New Jersey, effective on June 7, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of the Employment Security Agreements of 1970, Pub. L. 91-373; 26 U.S.C. 3304 note) established the

Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. This Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when unemployment in the State is no longer at the high levels set in the Act. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of New Jersey on March 9, 1980, and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State of New Jersey has determined, in accordance with the State law and 20 CFR 615.12(e), that the average rate of insured unemployment in the State for the period consisting of the week ending on May 17, 1980, and the immediately preceding twelve weeks, has decreased so that for that week there was an "off" indicator in that State. Therefore, the Extended Benefit Period in that State terminates with the week ending on June 7, 1980.

Information for Claimants

Persons who wish information about their rights to Extended Benefits in the State of New Jersey should contact the nearest local office of the State Department of Labor and Industry.

Signed at Washington, D.C., on June 3, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17220 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program, Extended Benefits; New Extended Benefit Period in the State of Kentucky

This notice announces the beginning of a new Extended Benefit Period in the State of Kentucky, effective on June 1, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Kentucky unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12(b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Kentucky has determined that, for the period consisting of the week ending on May 17, 1980, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded the State trigger rate.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on June 1, 1980.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Kentucky, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Kentucky Department for Human Resources in their locality.

Signed at Washington, D.C., on June 3, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17219 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Missouri

This notice announces the beginning of a new Extended Benefit period in the State of Missouri, effective on June 1, 1980.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible

individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Missouri unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded the State trigger rate. 20 CFR 615.12 (b) or (c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Missouri has determined that, for the period consisting of the week ending on May 17, 1980, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded the State trigger rate.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on June 1, 1980.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the State of Missouri, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State Employment Office of the Missouri Department of Labor and Industrial Relations in their locality.

Signed at Washington, D.C., on June 3, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80-17218 Filed 6-5-80; 8:45]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-80-81-C]

Eastover Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Eastover Mining Company, General Offices, Brookside, Kentucky 40801 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Virginia No. 1 Mine located in Wise County, 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 mineable area of the coal seam varies in height from 34 to 240 inches. The roof is normally composed of slate and/or limestone and is excellent except in areas underlying a creek.

2. In most instances the coal height will be in excess of 72 inches and cabs and canopies are routinely used. However, the mine's electric face equipment cannot be operated with cabs or canopies in areas of the mine where the coal seam falls to the 35 inch range because:

a. The canopies come into contact with roof bolts and other roof support apparatus causing the possibility of roof collapse;

b. the equipment operator's visibility is impaired and parts of the operator's body must protrude from the canopy, exposing the operator to the danger of injury;

c. the reduced operator compartment space increases the operator's fatigue and restricts the operator's arm and leg movements necessary for safe control and operation of the equipment;

d. the cutting of top rock to allow additional working space creates a respirable dust problem and poor working conditions;

e. rapid escape from the equipment in the event of an emergency is hampered.

3. For these reasons, petitioner requests a modification of the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17221 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-47-M]

FMC Corp.; Petition for Modification of Application of Mandatory Safety Standard

FMC Corporation, P.O. Box 872, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscuts intervals) to its Green River Mine located in Sweetwater County, Wyoming. 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. Petitioner proposes to drive a single entry decline 1,045 feet in length, extending from the present mining horizon to the bottom of one of the main ore production shafts.

2. As an alternative method to complying with the standard, petitioner proposes to make crosscuts at intervals not in excess of 100 feet between entries and between rooms excluding the single entry decline where measures have been taken to ensure adequate ventilation.

3. In support of this proposed alternative method, the petitioner states that the proposed decline will provide the following advantages:

a. Two means of access to the shaft bottom with the other means being a ladder or small manhoist in the shaft itself;

b. Improved ventilation because restrictions in the present ventilation system would be lessened, producing more efficient air flow;

c. An enlarged working area;

d. A means to provide better dust control. Better air flow as well as an area large enough to set up auxiliary dust control equipment, if needed, would be provided;

e. An additional sump. A large sump is designed into the system to reduce

potential problems caused by mine water;

f. Mechanized clean-up. Rubber-tired load-haul-dump equipment will be utilized versus the present system of hand mucking;

g. Safer working conditions for the material handling crews who clean the shaft bottom.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 27, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17222 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-32-C]

John Behm Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

John Behm Coal Company, 37 Branch Street, Tremont, Pennsylvania 17938, has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Castle Comer Tunnel located in Schuylkill 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. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

- The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;
- The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and
- The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternative method proposed with at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 80-17224 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-50-M]

Kennecott Minerals Co.; Petition for Modification of Application of Mandatory Safety Standard

Kennecott Minerals Company, Chino Mines Division, Hurley, New Mexico 88043, has filed a petition to modify the application of 30 CFR 55.9-2 (loading, hauling, dumping) to its Mines Plant Mine located in Grant County, New Mexico, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition follows:

1. The petitioner has five operating six-yard capacity Marion shovels (Model 4161). Two are used to fill remotely operated trains. Three are used to fill trucks. They were purchased during the years 1937-1948.

2. The Marion shovels were factory equipped with electrically activated mechanical brakes. The brakes were designed to retard the lateral movement of the boom while the shovel is being moved and to hold the boom in position when the shovel is stopped. Operation

of the brakes, called swing brakes, is described.

3. The petitioner states that the factory installed swing brakes have been inoperative since the mid 1960's. They either were removed or were not repaired because the shovel operator relied too much on the swing brakes to stop lateral movements of the boom and bucket when they were not designed or intended to be used for this purpose. For the past 15 years, shovel operators have been taught informally to control the lateral movements of the boom and bucket with foot controls. Use of the controls to move or stop the lateral movements of the boom and bucket is described.

4. The petitioner states that the company's safety records indicate that lack of swing brakes on shovels has not been given as a cause of injury.

5. As an alternative to the application of 30 CFR 55.9-2 to swing brakes on shovels, the petitioner proposes to replace the 15 year old informal task training program with a formal task training program and to post information on the techniques of shovel operation. Three exhibits are incorporated and made a part of this petition: (1) A copy of the instructions to be posted; (2) A copy of a training record form; (3) A copy of page 68 of the shovel's operation and maintenance instruction manual.

6. The petitioner states that the proposed alternate method is superior to functioning swing brakes for preventing the boom or bucket from swinging into an occupied truck. The petitioner notes that the remotely controlled trains are not occupied. Accordingly, the petitioner alleges, the miners' safety is better protected by allowing the requested modification.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 80-17225 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-71-C]

Maverick Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Maverick Mining Company, Drawer II, Grundy, West Virginia 24614 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 5 and No. 3-B Mines located in Buchanan 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. Petitioner is mining coal seams which range from twenty-six to thirty-four inches in height. The roof and floor conditions in both mines are very good.

2. The installation and use of auxiliary lights interfere with the miners' vision and hampers communications between the miners through the use of their cap lamps, resulting in a diminution of safety.

3. These auxiliary lighting fixtures come in contact with the roof, destroying both the lighting fixtures and the roof.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 30, 1980.

Frank A. White,
Director, Office of Standards, Regulations
and Variances.

[FR Doc. 80-17226 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-60-C]

Rita Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Rita Coal Company, P.O. Box 560, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. LF3 located in Pike 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 Rita No. LF3 Mine is in the Lower Elkhorn seam and ranges from 38 to 44 inches in height with consistent

ascending and descending grades which create dips in the coal bed.

2. Installation of canopies on the mine's haulage and face equipment would cause the canopies to come into contact with the roof and destroy roof support.

3. Canopies limit the visibility of the equipment operator, and require the operator to be seated in the decks in such a position that hazards to the operator and other nearby miners are created, resulting in a diminution of safety.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 30, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17227 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-80-72-C]

5-Leaf Clover Corp.; Petition for Modification of Application of Mandatory Safety Standard

5-Leaf Clover Corporation, P.O. Box 412, Oceana, West Virginia 24870 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its A Mine located in Wyoming 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 petitioner is recovering coal in an old mine where the bottom has severely deteriorated.

2. The scoop being utilized has ground clearance but is too high for a canopy.

3. A scoop that is low enough to support a canopy does not have the ground clearance.

4. Installation of canopies would cause a diminution of safety because:

a. Not enough area in the deck exists for a comfortable and safe equipment operator position;

b. The equipment operator's vision would be restricted, forcing parts of the operator's body to extend out from the equipment.

5. For these reasons, petitioner requests a modification of application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 7, 1980. 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. Copies of the petition are available for inspection at that address.

Dated: May 28, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-17223 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. L-1686]

Proposed Exemption for Certain Transactions Involving the Local 705 International Brotherhood of Teamsters Health and Welfare Fund Located in Chicago, Ill.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the proposed purchase by a corporation to be formed by the Local 705 International Brotherhood of Teamsters Health and Welfare Fund (the Plan) of an improved parcel of real property and the furnishings and equipment therein (the Clinic) from the Humboldt Clinical Laboratory Company (the Corporation), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect trustees, participants and beneficiaries of the Plan, officers, and shareholders of the Corporation, and any other persons participating in the proposed transaction.

DATES: Written comments must be received by the Department of Labor on or before July 14, 1980.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington,

D.C. 20216. Attention: Application No. L-1686. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Mr. David Stander, of the Department of Labor, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTAL INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act. The proposed exemption was requested in an application filed on behalf of the Board of Trustees of the Plan, (Trustees) pursuant to section 408(a) of the Act, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a welfare plan as defined in section 3(1) of the Act. The estimated number of Plan participants is 16,000. The Plan provides medical, hospital, and related services to its participants through two plans of benefits, Plans A and B. Plan A provides health coverage to a participant in the Plan only if the participant exclusively uses medical or hospital services provided by the Corporation. Plan B provides coverage to a participant if the participant uses medical or health services provided by anyone other than the Corporation. Plan A provides benefits without any limitation or cost to a participant, while Plan B provides only those benefits provided for in a scheduled list of benefits.

As of January 31, 1979, the Plan had net assets of approximately \$19,667,782.

2. The Corporation has provided medical and hospital services to participants in the Plan as provided for in Plan A since 1953. The Corporation's principal shareholder is Dr. Oscar M. Simon (Simon), who is also responsible for the operation of the Corporation. The Corporation's staff includes Dr. Edmund Donoghue (Donoghue) who presently performs services pursuant to Plan A through arrangements with Simon. The Corporation provides diagnostic, referral and treatment services to participants of

Plan A. The Corporation maintains patient records and answers inquiries by participants. The Corporation provides services to approximately 3,000 patients per month.

3. The Corporation owns the Clinic which the Plan seeks to purchase. The clinic consists of a parcel of real property improved by a medical facility and the furnishings, equipment and inventory located therein. The Clinic is located at 2018-2020 South Ashland Avenue, Chicago, Illinois, approximately two miles away from the Plan's offices. The Clinic is easily accessible via major expressways.

4. Simon is leaving the Chicago area and desires to sell the Clinic and dissolve the Corporation. Simon is unwilling to contract or make other arrangements with the Plan to continue the Corporation at its present location other than selling the Clinic to the Plan. The continued operation of the Clinic would enable the Plan to continue providing covered medical and hospital services without limitation or cost to participants of the Plan from a fully equipped, existing facility which is located close to where many Plan participants live or work. The Clinic maintains a staff which is experienced in dealing with the participants in the Plan. It is expected that Donoghue and other medical personnel who presently perform services for the Corporation through arrangements with Simon will contract with the Plan after the facility is purchased and continue to provide covered medical and hospital services pursuant to Plan A. The Plan intends to utilize medical and hospital services by the Clinic for at least the next five years.

5. The Trustees have determined that the purchase of the Clinic by the Plan from the Corporation is in the best interests of the Plan. None of the Trustees have any relationship to the Corporation or to Simon other than the provision of health services by the Corporation to the Plan. The Trustees represent that the direct ownership of the Clinic by the Plan would be less expensive than either contracting for medical and hospital services with other existing facilities, or purchasing, if available, or constructing and equipping another facility comparable to the Clinic.

6. A complete appraisal of the Clinic, excluding the furnishings, equipment, and inventory, was performed by Mr. Alan E. Waldman, an independent MAI appraiser, who estimates that as of September 12, 1979, its fair market value was \$85,000. Mr. H. D. Voelz, of Harry S. Cutmore and Associates, Inc., an independent valuation engineer, appraised the furnishings, equipment

and inventory and as of September 13, 1979, estimates their value at \$55,600. Therefore, the total market value of the Clinic as of September 13, 1979 was \$140,600. This proposed purchase price represents less than one percent of the Plan's net assets. The transaction will be for cash.

7. In summary, the applicant represents that the proposed purchase of the Clinic by the Plan from the Corporation satisfies the criteria of section 408(a) of the Act because (a) the purchase is a one-time transaction for cash; (b) the purchase price was determined pursuant to complete appraisals by independent, qualified appraisers; (c) the purchase will enable the Plan to continue providing covered health services without cost or limitation to its participants from a fully equipped, existing medical facility located close to where many participants live or work; (d) the direct ownership of the Clinic by the Plan would be less expensive than either contracting for medical and hospital services with other existing facilities, or purchasing, if available, or constructing and equipping another facility comparable to the Clinic; (e) the Trustees have determined that the purchase is in the best interests of the Plan; and (f) the purchase price constitutes less than one percent of the Plan's net assets.

Notice to Interested Persons

A copy of this notice shall be posted in prominent places for thirty days at the offices of Local 705, International Brotherhood of Teamsters. Notice will be provided within seven (7) days after publication of this notice in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act shall not apply to the purchase by the Plan of the Clinic from the Corporation as described above for the total purchase price of \$140,600 cash, provided that this amount is not more than the fair market value of the Clinic at the time of purchase.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 29th day of May, 1980.

Morton Klevan,

Deputy Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-16985 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. D-1552;
Prohibited Transaction Exemption 80-34]

Exemption From the Prohibitions for Certain Transactions Involving the Laborers Pension Trust Fund for Northern California, San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of individual Exemption.

SUMMARY: This exemption exempts from certain of the prohibited transaction restrictions of the employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code) an option agreement to purchase and the subsequent cash sale of certain real property in Alameda County, California by the Laborers Pension Trust Fund for Northern California (the Trust Fund) to Estate Homes of Northern California, Inc. (Estate Homes), a contributing employer with respect to the Trust Fund.

FOR FURTHER INFORMATION CONTACT: Ivan Strasfeld of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 28, 1980, notice was published in the *Federal Register* (45 FR 20594) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Act and from 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, for transactions described in an application filed on behalf of the Trust Fund. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also

invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that notice to interested persons has been given as set forth in the Notice of Proposed Exemption. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in

ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Accordingly, the restrictions of section 406(a) 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 option to purchase given and the subsequent cash sale of the real property located in Alameda County, California by the Trust Fund to Estate Homes for the price agreed upon under the option agreement provided that this amount is not less than the fair market value of the property.

The availability for this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 2d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17266 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-29-M

[Exemption Application No. D-856;
Prohibited Transaction Exemption 80-35]

Exemption From the Prohibited Transactions Involving the S & C Profit-Sharing Retirement Plan Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the leasing of real property by the S & C Profit-Sharing Retirement Plan (the Plan) to S & C Motors, Inc. (the Employer). The lease was entered into before the effective date of the Employer Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

EFFECTIVE DATE: This exemption is effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and

Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 21, 1980, notice was published in the *Federal Register* (45 FR 18522) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the trustee for the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice of proposed exemption was provided to all interested persons, and all interested persons were notified of their right to comment and request a hearing. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited

transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

- (a) The exemption is administratively feasible;
- (b) It is in the interests of the Plan and of its participants and beneficiaries; and
- (c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) 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 (E) of the Code shall not apply to the leasing of certain property described in the application from the Plan to the Employer for the rental amount stated in the lease, for the period from January 1, 1975, until January 25, 1980.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 2d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17264 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-993]

Proposed Exemption for Certain Transactions Involving the Supra Products, Inc.; Employees Profit Sharing Retirement Trust Located in Salem, Oreg.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the past sale by the Supra Products, Inc. Profit Sharing Retirement Trust (the Plan) of certain real property to a party in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Supra Products, Inc. (the Employer) and other persons who participated in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 16, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-993. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of

the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Iral Barrett and Mrs. Owen Barrett (the Barretts), the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with approximately 65 participants. As of October 31, 1979 the Plan had total assets of \$972,042. The Employer is wholly owned by the Barretts who also serve as officers and directors of the Employer.

2. In 1969, the Plan purchased from a party unrelated to the Plan a three and one-third acre parcel of real property on Pringle Road in Salem, Oregon (the Pringle Road Property) for \$25,000. The Pringle Road Property was zoned for light industrial uses. In 1972, the Employer leased one acre of the Pringle Road Property from the Plan for a fifteen-year term and constructed a new plant on it. The unleased remainder of the property was left vacant.

3. In July 1976 in order to realize a large profit on its investment and to eliminate a parcel of property which was, in major part, not earning any current income, the Plan sold the Pringle Road Property for a cash price of \$76,500 to a partnership (the Partnership) in which the Barretts owned a 50 percent interest. The price of the sale was determined by an independent appraisal performed by David J. Lau, (Lau) MAI, who is located in Salem, Oregon. In his appraisal, Lau considered both the value of the land and the improvements thereon in arriving at the appraised price. No real estate commissions were paid on the sale.

4. Because the Employer had leased the one acre of the Pringle Road Property, that portion of the Pringle Road Property may have been subject to the transitional rules of section 414(c) of the Act. If the Partnership had bought the one acre portion pursuant to section 414(c) of the Act, the Plan would have been left with an irregularly shaped 2 1/2 acre parcel of real property which produced no income.

5. The applicants presently have two other exemption applications filed with the Department. One of these applications involves the past exchange in September of 1976 of certain real property between the Plan and the Barretts. The other application involves the proposed sale of four parcels of real property by the Plan to the Barretts.

6. The applicants represent that the sale of the Pringle Road Property satisfied the criteria of section 408(a) of the Act as follows: (1) the trustees of the Plan represent that the sale was in the best interests of the Plan; (2) the price of the property was determined by an independent appraisal; (3) the sale was a one-time transaction for cash; (4) no real estate commissions were charged; and (5) the sale allowed the Plan to realize a large profit.

Notice of Interested Parties

Within ten days after its publication in the Federal Register, the notice of pendency will be given to all current participants in the Plan and all past participants who had an individual account of the time any of the past transactions occurred and who has not forfeited that account. For current employees of Supra Products, Inc. a copy of the notice will be posted at the place in the company plant where employee notices are found. Notice will be given to all other interested persons by mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of

the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) 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 (E) of the Code, shall not apply to the cash sale in July 1976 of a three and one-third acre of real property in Salem, Oregon by the Plan to the Partnership for \$76,500 provided that this amount

was at least the fair market value of the property at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2d day of June 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-17265 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-7867]

General Motors Corp., Chevrolet Motor Division, Flint Engine Plant; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 28, 1980 in response to a worker petition received on April 8, 1980 which was filed on behalf of workers and former workers producing GM parts and accessories at the Flint Engine Plant, Flint, Michigan of the Chevrolet Motor Division of General Motors Corporation.

The petitioning group of workers in this case was included in a determination (TA-W-7012) issued on May 13, 1980. Since all workers separated, totally or partially, from the Chevrolet Flint Engine plant on or after August 1, 1979 (impact date) and before May 13, 1982 (expiration date of the determination) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17233 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7330]

The Homer Laughlin China Co., Plants Nos. 4, 5, 6, 7, and 8; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the

results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers at The Homer Laughlin China Company, Newell, West Virginia. The workers produce earthen domestic dinnerware and institutional china for hotels, restaurants and hospitals. In the following determinations, without regard to whether any of the other criteria have been met for workers producing institutional china for hotels and restaurants at plants No. 6, No. 7, No. 8, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales and production of hotel and restaurant china at Homer Laughlin, measured in both quantity and value, increased during 1979 compared to 1978.

A survey of customers who purchased hotel and restaurant china produced at Homer Laughlin was conducted by the Department. Survey results revealed that customers, in the aggregate, increased purchases from Homer Laughlin and from other domestic manufacturers during 1979 compared to 1978. Additionally, survey results revealed that no customers reduced purchases from Homer Laughlin while increasing imports of hotel and restaurant china during the first quarter of 1980 compared to the first quarter of 1979.

For workers producing earthen domestic dinnerware at plant No. 4 and plant No. 5, all of the criteria have been met.

U.S. imports of earthen table and kitchen articles increased both absolutely and relative to domestic shipments during 1979 compared to 1978.

A survey of customers who purchased earthenware produced at The Homer Laughlin China Company was conducted by the Department. Survey results revealed that major customers decreased purchases of earthenware from Homer Laughlin while increasing purchases of imported earthenware during 1979 compared to 1978 and during

the first quarter of 1980 compared to the first quarter of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with earthen domestic dinnerware produced at plant No. 4 and plant No. 5 of The Homer Laughlin China Company, Newell, West Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers of plant #4 and plant #5 of The Homer Laughlin China Company, Newell, West Virginia engaged in employment related to the production of earthen domestic dinnerware who became totally or partially separated from employment on or after July 16, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

I further determine that all workers of plants No. 6, No. 7, and No. 8 of The Homer Laughlin China Company, Newell, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of May 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-17234 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8022]

Lear Siegler Inc., General Seating Division; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 19, 1980 in response to a worker petition received on May 1, 1980 which was filed on behalf of workers and former workers producing metal seat frames for automobiles and trucks at the Ferguson, Kentucky plant of the General Seating Division of Lear Siegler, Incorporated. The notice of investigation listed the location as Livonia, Michigan. The Division is headquartered in Livonia, Michigan. The intent of the petition was to file on behalf of workers at the Ferguson, Kentucky production facility.

On March 24, 1980, a petition was filed on behalf of the same group of workers (TA-W-7427).

Since the identical group of workers is the subject of the ongoing investigation TA-W-7427, a new investigation would

serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 30th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17235 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Motor City Stamping, Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing

a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 16, 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of May 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Motor City Stamping Incorporated (company).	Sterling Heights, Mich.	5-6-80	4-30-80	7997	Washers, brackets, clamps, weight and support for GM cars.
Goodyear Tire and Rubber Co. (company)	Lawton, Okla.	5-6-80	4-29-80	7998	Original equipment passenger tires.
Clark Copy International Corp. (company)	Morton Grove, Ill.	5-12-80	5-5-80	7999	Photocopy machines.
Dazero, Inc. (company)	Hialeah, Fla.	5-9-80	5-7-80	8000	Men's slacks and men's 3-piece suits.
Eaton Corp., Temperature Control Division, Athens Plant (company).	Athens, Ala.	5-12-80	5-9-80	8001	Thermostats for Chrysler and GM cars.
Scheeler Brothers Lumber Company (company).	Olympia, Wash.	5-13-80	5-13-80	8002	Cedar lumber.
Sun Cutter Corp. (company)	Elk Rapids, Mich.	5-12-80	5-2-80	8003	Cutting blades.
Independence Steel Sale & Service, Inc. (company).	Warren, Mich.	5-2-80	4-23-80	8004	Steel for American made cars.
Southeastern Garment Corp. (company)	Clinton, N.C.	5-6-80	4-24-80	8005	Down jackets and vests.
Lucky Sports Sewing Co., Inc. (company)	New York, N.Y.	5-6-80	4-30-80	8006	Ladies skirts and pants.
Metal Forge Co. (UAW)	Columbus, Ohio	4-29-80	4-23-80	8007	Automobile parts.
Excellco Corp., McCord-Winn Division (IUE)	Winchester, Mass.	4-29-80	4-25-80	8008	Automotive components.
Gorsuch Foundry Company, Inc. (workers)	Jeffersonville, Ind.	5-2-80	4-28-80	8009	Grey iron, aluminum and bronze casting.
Armco Inc. (AEIF)	Middletown, Ohio	5-6-80	4-28-80	8010	Carbon steel products.
Snyder Shake Company	Forks, Wash.	5-13-80	5-1-80	8011	Cedar shakes.
ARMCO, Inc., Union Wire Rope Plant (USWA).	Kansas City, Mo.	5-1-80	4-28-80	8012	Steel rope, and other wire products.
Berkshire Maid Garment Manufacturing Corp. (company).	Springfield, Mass.	5-1-80	4-22-80	8013	Ladies' blouses, tops, skirts.
Dalton Ind., Inc. (ILGWU)	Willoughby, Ohio	5-1-80	4-28-80	8014	Women's sportswear.
Eaton Corp., Timmerman Plant (UAW)	Cleveland, Ohio	4-29-80	4-29-80	8015	Fasteners.
Summit Warehouse Inc. (Teamsters)	Mogadore, Ohio	4-29-80	4-22-80	8016	Automobile and truck tires.
G.M. Corp., Inland Mfg. Division (URW)	Dayton, Ohio	4-28-80	4-18-80	8017	Automotive components.
Chronar Corp. (workers)	Princeton, N.J.	4-28-80	4-23-80	8018	Watches and watch parts.
Ben Max Sportswear (company)	Asbury Park, N.J.	5-8-80	5-6-80	8019	Ladies' suits and coats.
Walco Enterprises, Inc. (company)	Warren, Mich.	5-8-80	5-5-80	8020	Machine repair work for American made cars.
Callins Ind., Inc. (company)	Hollandale, Miss.	5-8-80	4-30-80	8021	Aluminum electrolytic.
Lear Seigler, Inc. (workers)	Livonia, Tenn.	5-1-80	4-24-80	8022	Seats for Ford and Volkswagen.
Hunt-Wilde Corp. (company)	Dayton, Ohio	5-2-80	3-29-80	8023	Parts for bicycles, wheel chairs, lawn mowers, and other tools.
Lipsett Industries and Byron Midwest, Inc. (workers).	Monongahela, Pa.	4-29-80	4-14-80	8024	Recyclers of various metals.
Dura Corp., Adrian Div. (company)	Adrian, Mich.	5-13-80	5-9-80	8025	Light duty truck bumpers, and auto scissor jacks.
ACCO Industries Inc. Blytheville Plant (workers).	Blytheville, Ark.	5-1-80	4-25-80	8026	Cable control for automobiles.
P. H. Leather & Suede Incorporated (workers)	New York, N.Y.	5-1-80	4-27-80	8027	Leather and suede articles.
Brand X Fashions Inc. (workers)	New York, N.Y.	5-1-80	4-27-80	8028	Leather and suede articles.
Chrysler Corp. U.S. Automotive Sales Section (UAW).	Highland Park, Mich.	5-1-80	4-29-80	8029	Automotive administrative.
Davidson Mfg. Co., Inc. (workers)	Detroit, Mich.	5-1-80	4-23-80	8030	Automotive parts.
Barley Earhart Co. (AIW)	Portland, Mich.	5-1-80	4-28-80	8031	Gas tank straps, anti squeak parts and general parts for automobiles.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Lobdell-Emery Mfg., Co. (UAW)	Alma, Mich	5-1-80	4-29-80	8032	Ford Gen. Motors auto parts.
Chrysler Corp., Zone Service Office (workers)	Hazelwood, Mo	5-6-80	5-2-80	8033	Administration of Corporate dealership.
Chrysler Corp., Belvidere Assembly Plant (workers)	Belvidere, Ill	5-6-80	5-5-80	8034	Administrative and other support functions.
Westinghouse Buffalo, Apparatus Service (IUE)	Buffalo, N.Y.	5-1-80	4-19-80	8035	Electrical motors, generators, transformers, magnets turbines, switching gear and other parts.
The Stanley Works, Stanley Hydraulics, Tools Division, (workers)	Milwaukee, Oreg.	4-29-80	4-23-80	8036	Hydraulic paving breakers.
Newport Steel Corp. (workers)	Newport, Ark	4-29-80	4-22-80	8037	Angled steel.
Servomation Corp. (company)	Greenville, N.C.	4-29-80	4-18-80	8038	Zipper.
American Sunroof Corporation (company)	Southgate, Mich	5-1-80	4-21-80	8039	Installing of sunroof.
Allen Shoe Company Incorporated (workers)	Haverhill, Mass	5-2-80	4-30-80	8040	Women's shoes.
LaConner Cedar Incorporated (workers)	LaConner Wash.	5-2-80	4-29-80	8041	Cedar shakes & shingles.
Barry-Wehmiller Co. (IAMAW)	St. Louis, Mo	5-2-80	4-30-80	8042	Bottle washers & pasteurizers machines.
Barry-Wehmiller Co. (IAMAW)	St. Louis, Mo	5-2-80	4-30-80	8043	Bottle washers & pasteurizers machines.
Van Dresser Corp. (UAW)	Norwalk, Ohio	4-29-80	4-22-80	8044	Automotive component.
Thom McAn Shoe Co. (teamsters)	Auburn, Mass	4-29-80	4-23-80	8045	Men's, women's and childrens footwear.
GTR Reinforced Plastic Company (UFWA)	Ionia, Mich	5-1-80	4-28-80	8046	Fiber glass reinforced plastic to auto industry.
Fox Point Sportswear, Inc. (ACTWU)	Port Washington, Wis	5-12-80	5-9-80	TA-W-8,047	Ladies' sportswear, outerwear & insulated snowmobile clothing.
Woonsocket Spinning Co. (ACTWU)	Charlotte, N.C.	5-12-80	5-8-80	TA-W-8,048	Woolen, camel hair and cashmere yarn for apparel.
Russellville Sportswear, Inc. (ACTWU)	Russellville, Ala	5-12-80	5-8-80	TA-W-8,049	Men's pants.
Rud-Shaw Mfg. Company, Inc. (ACTWU)	Brooklyn, N.Y.	5-12-80	5-8-80	TA-W-8,050	Tailored clothing.
Solix Sportswear Corp. (ACTWU)	New York, N.Y.	5-12-80	5-8-80	TA-W-8,051	Men's outerwear.
Leon of Paris Co., Inc. (ACTWU)	New York, N.Y.	5-12-80	5-8-80	TA-W-8,052	Tailored clothing.
Amil Mfg., Company (ACTWU)	Shickshinny, Pa	5-12-80	5-8-80	TA-W-8,053	Outerwear.
Fox-Knapp Mfg., Co. (ACTWU)	Pine Grove, Pa	5-12-80	5-8-80	TA-W-8,054	Outerwear.
The Arrow Company (ACTWU)	Atlanta, Ga	5-12-80	5-8-80	TA-W-8,055	Dress shirts.
The Arrow Company (ACTWU)	Bremen, Ga	5-12-80	5-8-80	TA-W-8,056	Dress shirts.
The Arrow Company (ACTWU)	Buchanan, Ga	5-12-80	5-8-80	TA-W-8,057	Dress shirts.
The Arrow Company (ACTWU)	Cedartown, Ga	5-12-80	5-8-80	TA-W-8,058	Dress shirts.
Dana Corporation, Material Supply Division (UAW)	Havana, Ill	5-12-80	4-29-80	TA-W-8,059	Steering components for trucks, components for differentials for vehicles, piston ring castings for engines.
Danny Leather Fashions, Inc. (workers)	New York, N.Y.	5-12-80	5-6-80	TA-W-8,060	Contractors for cutting and making leather coats.
Park-Ohio Industries, Ohio Crankshaft Div. (UAW)	Cleveland, Ohio	5-12-80	5-8-80	TA-W-8,061	Crankshafts and camshafts.
Fox-Knapp Mfg. Co. (ACTWU)	Milton, PA	5-12-80	5-8-80	TA-W-8,062	Outerwear.
Regina company (National Union of Electrical & Machine Workers)	Rahway, N.J.	5-12-80	4-30-80	TA-W-8,063	Electric brooms.
Stamping Service, Inc. (UAW)	Detroit, Mich	5-12-80	5-2-80	TA-W-8,064	Engine-accelerator brackets, chassis.
Wolverine Bolt Co. (company)	Detroit, Mich	5-12-80	5-5-80	TA-W-8,065	Auto fasteners and bolts.
Dana Corporation, Spicer Universal Joint Div. (UAW)	Pottstown, Pa	5-12-80	5-7-80	TA-W-8,066	Universal joints—drive shafts for trucks and vans.
MTG Industries (workers)	Philadelphia, Pa	5-12-80	4-29-80	TA-W-8,067	Men's tailored clothing—sportcoats.
Maple Tree Incorporated (workers)	Mapleville, Ala	5-9-80	5-7-80	TA-W-8,068	Shirts and blouses.
V.P.P. Co., Inc. (company)	Beaver, Wash	4-15-80	4-10-80	TA-W-8,069	Cedar products, shakes and shingles.
E.I. Dupont Co. C.D. & P. Dept. (workers)	Rumford, R. I.	4-22-80	4-14-80	TA-W-8,070	Dyes.
Weyerhaeuser Co., Aberdeen Mill (workers)	Aberdeen, Wash	4-15-80	4-7-80	TA-W-8,071	Lumber for housing industry.
The Firestone Tire & Rubber Company (workers)	Laverne, Tenn	4-28-80	4-24-80	TA-W-8,072	Transtee radial truck tires.
Rico Machine Co., Inc. (USWA)	Bristol, R.I.	5-7-80	4-30-80	TA-W-8,073	Machine tools.
Standard Products Company (UAW)	Gaylord, Mich	5-7-80	5-1-80	TA-W-8,074	Automotive parts.
Eastern Sportswear Manf. Co., Inc. (workers)	New Bedford, Mass	5-7-80	5-2-80	TA-W-8,075	Women's and girls' jeans and slacks.
Mida Mfg., Inc. (workers)	Philadelphia, Pa	5-7-80	4-30-80	TA-W-8,076	Costume jewelry.
Bundy Corp., Bundy Tubing Div. (UAW)	Warren, Mich	5-7-80	4-29-80	TA-W-8,077	Small diameter steel tubing, brake lines, push rods.
Charles A. Easton Company (workers)	Richmond, Maine	5-7-80	5-1-80	TA-W-8,078	Shoes.
Davidson Rubber (workers)	Dover, N.H.	5-7-80	5-1-80	TA-W-8,079	Molds and dies for interior and exterior plastic auto pieces.
Hanimex Manf. Co. (AIW)	Jackson, Mich	5-7-80	5-1-80	TA-W-8,080	Movie project equipment, film editors, slide viewers, slide projectors.
D & G Shake Co., Inc. (workers)	Amanda Park, Wash	5-7-80	5-2-80	TA-W-8,081	Shakes and shingles.
Michigan Rubber Products, Inc. (company)	Cadillac, Mich	5-15-80	5-9-80	TA-W-8,082	Rubber products for automobiles.
Maryanne Sportswear (workers)	Ozone Park, N.Y.	5-7-80	5-3-80	TA-W-8,083	Ladies' sportswear.
ITT Lester Industries, Inc. (company)	Rome, Ga	5-6-80	5-1-80	TA-W-8,084	Automatic transmission parts.
ITT Lester Industries, Inc. (company)	Bedford Hts., Ohio	5-6-80	5-1-80	TA-W-8,085	Automatic transmission parts.
Greif & Company (company)	Fredericksburg, Va	5-8-80	5-6-80	TA-W-8,086	Tailored clothing.
Greif & Company (company)	Baltimore, Md	5-8-80	5-6-80	TA-W-8,087	Tailored clothing.
Greif & Company (company)	Everett, Pa	5-8-80	5-6-80	TA-W-8,088	Tailored clothing.
Greif & Company (company)	Hanover, Pa	5-8-80	5-6-80	TA-W-8,089	Tailored clothing.
Greif & Company (company)	Verona, Va	5-8-80	5-6-80	TA-W-8,090	Tailored clothing.
Magnavox Consumer Electronics Company (IUE)	Jefferson City, Tenn	4-14-80	4-8-80	TA-W-8,091	Cabinets for T.V.
Allison Mfg. Co. (workers)	Allentown, Pa	5-7-80	5-1-80	TA-W-8,092	Men's and boys' knit shirts.
Victor Business Products (New York Branch) (company)	New York, N.Y.	5-13-80	5-6-80	TA-W-8,093	Produces, sells and services electronic business calculators and cash registers.
Eaton Corporation, Saginaw Plant (AIW)	Saginaw, Mich	5-7-80	4-29-80	TA-W-8,094	Auto engine parts.
Firestone Tire & Rubber Company (workers)	Akron, Ohio	5-12-80	5-2-80	TA-W-8,095	Radial and bias ply passenger and truck tires.
Chromalloy American Corporation, Forest Hills Sportswear Div. (ACTWU)	Lawrenceburg, Tenn	5-12-80	5-6-80	TA-W-8,096	Men's suit trousers and men's slacks.
Chemseco (workers)	Cumberland, Md	5-12-80	4-29-80	TA-W-8,097	Automotive parts.
New England Drawn Steel Co., Inc. (workers)	Mansfield, Mass	5-2-80	4-25-80	TA-W-8,098	Rolled steel bars.
Getty Fashions, Inc. (workers)	Yonkers, N.Y.	5-2-80	4-28-80	TA-W-8,099	Ladies' apparel.
Garland Corporation (company)	Brockton, Mass	5-6-80	5-1-80	TA-W-8,100	Women's sweaters, knit dresses and women's sportswear.
St. Clair Rubber Company (Molded) (URW)	Marysville, Mich	5-7-80	4-29-80	TA-W-8,101	Molded rubber parts for autos; adhesives for autos.
St. Clair Rubber Company (Adhesive) (URW)	Marysville, Mich	5-7-80	4-29-80	TA-W-8,102	Molded rubber parts for autos; adhesives for autos.
G. B. Dupont Co. (company)	Troy, Mich	5-7-80	5-2-80	TA-W-8,103	Automotive cold heated products.
G. B. Dupont Co. (company)	Lapeer, Mich	5-7-80	5-2-80	TA-W-8,104	Automotive cold heated products.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Packard Electric Div. (workers).	Brookhaven, Miss.	5-6-80	4-28-80	TA-W-8,105	Automotive wiring harnesses.
General Motors Corporation, Packard Electric Division (IUE).	Warren, Ohio	5-2-80	4-24-80	TA-W-8,106	Automotive wiring harnesses.
General Motors Corporation, Packard Electric Division (IUE).	Clinton, Miss.	4-29-80	4-21-80	TA-W-8,107	Automotive wiring harnesses.
Kelly Carbide Die Corporation (company)	Roseville, Mich.	5-13-80	5-8-80	TA-W-8,108	Cold heading tools for the fastener industry.
Superior Industries International, Inc. (company).	Van Nuys, Calif (Woodley Ave.)	5-2-80	4-28-80	TA-W-8,109	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Van Nuys, Calif (Keswick)	5-2-80	4-28-80	TA-W-8,110	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Los Angeles, Calif	5-2-80	4-28-80	TA-W-8,111	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	West Los Angeles, Calif	5-2-80	4-28-80	TA-W-8,112	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Gardena, Calif	5-2-80	4-28-80	TA-W-8,113	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Itasca, Ill (Rte 53)	5-2-80	4-28-80	TA-W-8,114	Steel and aluminum sport automobile wheels.
Superior Industries International, Inc. (company).	Itasca, Ill (W. Bryn)	5-2-80	4-28-80	TA-W-8,115	Steel and aluminum sport automobile wheels.
C. A. Spalding Co. (company)	Philadelphia, Pa.	5-13-80	5-8-80	TA-W-8,116	Tools, dies, special machinery for autos
Dana Perfect Circle (UAW)	Rushville, Ind.	5-2-80	4-30-80	TA-W-8,117	Sleeve castings, piston rings.
Gulf & Western Mfg. Co., Bohn Aluminum Brass Div. (Wkrs.)	Adraia, Mich.	4-29-80	4-22-80	TA-W-8,118	Brass automotive gears, blerm bumpers.
Bethlehem Steel Corp. (workers)	Buffalo, N.Y.	4-21-80	4-16-80	TA-W-8,119	Steel.
Rockport Log & Shake (workers)	Copalis Crossing, Washington	4-29-80	4-17-80	TA-W-8,120	Cedar shakes and shingles.
Schurig Shoe Clinic (workers)	Warren, Mich.	5-2-80	4-23-80	TA-W-8,121	Shoes and leather for shoes.
Armco, Inc., Kansas City Workers (USA)	Kansas City, Mo.	5-2-80	4-28-80	TA-W-8,122	Steel, rods, bolts and nuts.
Pittsburgh Tube Co. (Pittsburgh Tube Ind. Union).	Jane Lew, W. Va.	5-2-80	4-29-80	TA-W-8,123	Steel.
Whittaker Steel, Strip Division (workers)	Detroit, Mich.	5-2-80	4-25-80	TA-W-8,124	Steel, cold rolled, and heat treated.
Mazda Fashions (workers)	New York, N.Y.	5-6-80	4-30-80	TA-W-8,125	Coats and jackets, ladies.
G. K. Technologies, General Cable Div. (USA).	Pownal, Vt.	5-2-80	4-28-80	TA-W-8,126	Electrical cords.
Inland Tool & Manufacturing Co. (workers)	Detroit, Mich.	5-2-80	4-28-80	TA-W-8,127	Brake parts for automobiles.
Kenworth Truck Co. (UAW)	Kansas City, Mo.	5-2-80	4-24-80	TA-W-8,128	Diesels and heavy duty trucks.
Penn Dixie Ind., Inc., Cement Division (UCL & GWIU).	So. Pittsburg, Tenn.	5-2-80	4-26-80	TA-W-8,129	Portland cement.
U.S. Industries, Inc., Barsteel Division (UAW).	Detroit, Mich.	5-2-80	4-29-80	TA-W-8,130	Trim and moldings for automobiles.
Sealed Power Corp., Die Cast Division (company).	Alma, Mich.	5-13-80	5-2-80	TA-W-8,131	Tilt column for steering.
Sealed Power Corp., Die Cast Division (company).	Dowagiac, Mich.	5-13-80	5-2-80	TA-W-8,132	Oil filter bases.
Specialty Systems, Inc. (company)	Rochester, Mich.	5-13-80	5-8-80	TA-W-8,133	Release agents and cleaners.
William Amer Co. (company)	Philadelphia, Pa.	5-13-80	5-9-80	TA-W-8,134	Kid leathers.
Dura Corporation (workers)	Southfield, Mo.	5-7-80	4-30-80	TA-W-8,135	Q.E.M. auto parts.
U.S. Manufacturing Corp., Auto Products Division (UAW).	Fraser, Mich.	5-13-80	5-5-80	TA-W-8,136	Automobile steering knuckles.
Triangle Auto, Spring Company (workers)	Columbia, Tenn.	5-13-80	5-7-80	TA-W-8,137	Flat leaf springs for automobiles.
Machinery Builders, Inc. (UAW)	Toledo, Ohio	5-7-80	4-23-80	TA-W-8,138	Processing equipment for auto and steel industries.
Julius Simon, Ruffalo Co. (workers)	New York, N.Y.	5-13-80	5-7-80	TA-W-8,139	Men's swimming attire.
Hayes-Albion Corp. (workers)	Tiffin, Ohio	5-13-80	5-7-80	TA-W-8,140	Cast parts for automobiles.
General Electric Tube Products Div. (AIW)	Owensboro, Ky.	5-13-80	5-7-80	TA-W-8,141	Cathode ray tubes for televisions.
Gulf & Western Stamping Div., Plant 22 (UAW).	Mancelona, Mich.	5-13-80	5-8-80	TA-W-8,142	Brakes, hood latches for autos.
Perfection Pattern & Mfg. (Pattern Mkrs. Ass.)	Madison Hts., Mich.	5-8-80	5-5-80	TA-W-8,143	Patterns, metal and wood (auto).
Automotive Pattern Company (Pattern Mkrs. Ass.)	Detroit, Mich.	5-8-80	5-5-80	TA-W-8,144	Patterns, metal and wood (auto).
Conventry Pattern Company (Pattern Mkrs. Ass.)	Troy, Mich.	5-8-80	5-5-80	TA-W-8,145	Patterns, wood (auto).
Commerce Engineering & Pattern (Pattern Mkrs. Ass.)	Walled Lake, Mich.	5-8-80	5-5-80	TA-W-8,146	Industrial patterns.
Sherwood Pattern Co. (Pattern Mkrs. Ass.)	Walled Lake, Mich.	5-8-80	5-5-80	TA-W-8,147	Patterns, metal and wood (auto).
Admiral Pattern Works (Pattern Mkrs. Assoc.)	Warren, Mich.	5-8-80	5-5-80	TA-W-8,148	Patterns, metal and wood (auto).
Progress Pattern (Pattern Mkrs. Ass.)	Southfield, Mich.	5-8-80	5-5-80	TA-W-8,149	Patterns, metal and wood (auto).
J & I Pattern (Pattern Mkrs. Ass.)	Troy, Mich.	5-8-80	5-5-80	TA-W-8,150	Patterns, metal and wood (auto).
Annex Pattern Co. (Pattern Mkrs. Ass.)	Southfield, Mich.	5-8-80	5-5-80	TA-W-8,151	Patterns, metal and wood (auto).
Sherwood Metal (Pattern Mkrs. Ass.)	Drayton Plains, Mich.	5-8-80	5-5-80	TA-W-8,152	Patterns, metal and wood (auto).

[FR Doc. 80-17236 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 26-30, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-7160; Active Tool and Manufacturing Co., Inc., Detroit, Mich.

The investigation was initiated on February 19, 1980 in response to a petition which was filed on behalf of workers at Active Tool and Manufacturing Company, Incorporated, Detroit, Michigan. Workers at Active Tool and Manufacturing Company, Incorporated, produce tools and dies for the automotive industry.

The investigation revealed that criterion (3) has not been met.

It is alleged on the petition that increased imports of automobiles have caused layoffs in the automotive tool and die industry. Imported automobiles cannot be considered like or directly competitive with automotive tool and die products. Imports of automotive tool and die products must be considered in determining import injury to workers producing tools and die products at Active Tool and Manufacturing Company.

U.S. imports of tools and dies for automotive use are negligible. Industry sources indicated that because of the

complex engineering involved in constructing the tools and dies, the users must have easy access to the tool and die producers for servicing, maintenance, and supply and installation of replacement parts. In this case, therefore, the certifying officer has determined that all workers of Active Tool and Manufacturing Company, Incorporated, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7559; Allen Knitting Mills, Inc., Standard Textile Mills, Inc., Paw Creek, N.C., New York, N.Y.

The investigation was initiated on April 7, 1980 in response to a petition which was filed on behalf of workers at Allen Knitting Mills, Incorporated and Standard Textile Mills, Incorporated, both located in Paw Creek, North Carolina and New York, New York. Workers at the firms produce finished knit fabric.

The investigation revealed that criterion (3) has not been met.

U.S. imports of finished fabric decreased absolutely in 1979 compared with 1978. The ratio of imports to domestic production has not exceeded 2.1 percent in any year since 1975.

Customers of Allen Knitting Mills, Incorporated were surveyed by the Department for their purchases of fabric. Survey respondents indicated they did not decrease purchases from Allen and increase purchases of imported fabric during the period 1978 through the cessation of knitting operations at the mill in August 1979.

In this case, therefore, the certifying officer has determined that all workers of Allen Knitting Mills, Incorporated and Standard Textile Mills, Incorporated, Paw Creek, North Carolina and New York, New York are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA-W-7470; American Steel and Supply Co., Eugene, Oreg.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Eugene, Oregon Service Center of the American Steel and Supply Company. Workers at the Eugene Center straighten and shear coils of steel strip into wood-burning stove and fireplace insert parts.

The investigation revealed that criterion (3) has not been met.

Sales and employment declines related to the production of wood-

burning stove and fireplace insert parts at the Eugene Center were the result of seasonal fluctuations. The start-up of production for the parts normally begins in June, with the season lasting until January of the following year. In most years, the center will suffer a period of negligible orders from February through May.

The Eugene Center buys rolls of carbon steel strip, which the workers straighten and shear. The sheared carbon steel strip is then sold for use in wood-burning stoves and fireplace inserts. U.S. imports of carbon steel strip decline both absolutely and relative to domestic shipments in 1979 compared to 1978.

The average number of person-hours spent in the production of wood-burning stove and fireplace insert parts increased at the Eugene Center in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter of 1979.

Sales of wood-burning stove and fireplace insert parts increased at the Eugene Center in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Eugene, Oregon Service Center of the American Steel and Supply Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7458; Anaconda Aluminum Reduction Co., Columbia Falls, Mont.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Anaconda Aluminum Reduction Company, Columbia Falls, Montana. Workers at the plant produce aluminum.

The investigation revealed that criterion (1) has not been met.

Average employment at the Anaconda Aluminum Reduction Company increased in 1979 compared to 1978 and in the first quarter of 1980 compared to the first quarter of 1979. Any separations which occurred during this period were temporary and can be attributed to normal business fluctuations.

In this case, therefore, the certifying officer has determined that all workers of Anaconda Aluminum Reduction Company, Columbia Falls, Montana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7428; Arvin Industries, Inc.,
Arvin Automotive Division,
Indianapolis, Ind.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the United Brotherhood of Carpenters and Joiners of America on behalf of workers at the Indianapolis, Indiana Distribution Center of the Arvin Automotive Division of Arvin Industries, Incorporated. Workers at the Indianapolis facility of Arvin Industries, Incorporated are engaged in employment related to the production of mufflers and exhaust pipes.

The investigation revealed that criterion (3) has not been met.

The department conducted a survey of the replacement market customers of the Arvin Automotive Division of Arvin Industries, Incorporated. The survey revealed that customers which decreased purchases of mufflers and exhaust pipes from Arvin while increasing purchases of imported mufflers and exhaust pipes for 1979 compared to 1978 and for the first quarter of 1980 compared to the quarter of 1979 represented insignificant proportions of the Indianapolis Distribution Center's declines in sales for those respective periods. The Distribution Center sells replacement parts produced by the Arvin Automotive Division of Arvin Industries, Incorporated.

Imports of cars cannot be considered to be like or directly competitive with replacement market mufflers and exhaust pipes produced and distributed by the Arvin Automotive Division of Arvin Industries, Incorporated. Imports of mufflers and exhaust pipes must be considered in determining import injury to workers producing and distributing replacement market mufflers and exhaust pipes for the Arvin Automotive Division of Arvin Industries, Incorporated.

Arvin Industries, Incorporated does not import exhaust pipes from its Canadian plant for the U.S. replacement market.

In this case, therefore, the certifying officer has determined that all workers of the Indianapolis, Indiana Distribution Center of the Arvin Automotive Division of Arvin Industries, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7510; Atlantic Dress
Manufacturing Co., Williamstown, N. J.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International

Ladies' Garment Workers Union On behalf of workers at Atlantic Dress Manufacturing Company. The workers produce ladies' skirts and slacks.

The investigation revealed that criterion (3) has not been met.

Atlantic Dress Manufacturing Company produces women's skirts and slacks for a single manufacturer. This manufacturer did not purchase any imported women's skirts or slacks or utilize foreign contractors for the production of those products in 1978, 1979 or in the first quarter of 1980. The manufacturer's sales did not decline in 1979 compared to 1978 or in the first three months of 1980 compared to the first three months of 1979.

In this case, therefore, the certifying officer has determined that all workers of Atlantic Dress Manufacturing Company, Williamstown, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7390, TA-W-7391; Bethlehem
Mines Corp., Cambria Division, Mine
No. 73, Mine No. 77, Ebensburg, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Bethlehem Mines Corporation, Cambria Division, Mine No. 73 and Mine No. 77, Ebensburg, Pennsylvania. Workers at the mine produce metallurgical coal.

Mine No. 73 and Mine No. 77 are metallurgical coal producing mines of Bethlehem Mines Corporation, the coal producing subsidiary of Bethlehem Steel Corporation. Nearly all of the coal produced by the two mines is shipped to the Johnstown steel plant of Bethlehem Steel Corporation where it is converted to coke used in steel-making. Mine No. 73 permanently closed and operations at Mine No. 77 were suspended at the end of February, 1980.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of metallurgical coal were negligible in each of the years 1975 through 1979. U.S. imports of coke declined absolutely and relative to domestic production in 1979 compared with 1978.

Bethlehem Steel Corporation purchases of foreign coke declined in 1979 compared with 1978. Bethlehem Steel Corporation ceased purchases of imported coke in December, 1979. Demand for coke by Bethlehem Steel

Corporation declined as steel production declined.

U.S. imports of carbon steel bars, alloy steel bars, carbon steel wire rod, and carbon steel wire decreased absolutely and relative to domestic shipments in 1979 compared with 1978. An investigation conducted by the Office pursuant to worker petition (TA-W-7479) revealed that these four products, together, accounted for about 75% of the Johnstown plant's outside shipments during the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of Bethlehem Mines Corporation, Cambria Division, Mine No. 73 and Mine No. 77, Ebensburg, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7495; Bethlehem Mines Corp.,
Ellsworth-Butler Division; Fawn No. 91
Mine; Saxonburg, Pa.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Bethlehem Mines Corporation, Ellsworth-Butler Division, Fawn No. 91 Mine, Saxonburg, Pennsylvania. Workers at the mine produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

The Fawn No. 91 mine is one of four mines producing metallurgical coal within the Ellsworth-Butler Division of Bethlehem Mines Corporation, the coal producing subsidiary of Bethlehem Steel Corporation. Nearly all of the coal mined at the Fawn No. 91 Mine is sent to the Sparrows Point, Maryland steel plant where it is converted to coke that is used in steel-making.

Coke is metallurgical coal at a later stage of processing. Since a domestic article may be "directly competitive" with an imported article at a later stage of processing, imports of coke can be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of metallurgical coal were negligible in the years 1975 through 1979. U.S. imports of coke declined both absolutely and relative to domestic production in 1979 compared with 1978.

Bethlehem Steel Corporation purchases of imported coke declined in 1979 compared with 1978. Bethlehem Steel Corporation ceased purchases of imported coke in December, 1979. Declines in coal production at the Fawn No. 91 Mine were the result of declines in steel production at Bethlehem Steel Corporation.

Workers at the Sparrows Point, Maryland steel plant were denied

eligibility to apply for adjustment assistance on February 8, 1980 (TA-W-6594). The denial was based upon evidence that imports of steel products produced at Sparrows Point had declined both absolutely and relative to domestic shipments during the first nine months of 1979 compared with the same period in 1978. Further examination revealed that U.S. imports of pipe and tubing, wire rods, wire and wire products, hot rolled sheet and strip, cold rolled carbon steel sheet and strip, tin plate products, galvanized steel sheet, and plate also declined both absolutely and relative to domestic production in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that all workers of Bethlehem Mines Corporation, Ellsworth-Butler Division, Fawn No. 91 Mine, Saxonburg, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7479; Bethlehem Steel Corp., Johnstown, Pa.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the Johnstown, Pennsylvania plant of the Bethlehem Steel Corporation. Workers at the Johnstown plant produce carbon and alloy steel bars, basic steel products, wire, rods, trackwork, railroad wheels, axles and circular forgings, freight cars and parts.

The investigation revealed that criterion (3) has not been met.

All workers of the Conemaugh and Blacklick Railroad and the Johnstown, Pennsylvania plant of the Bethlehem Steel Corporation were previously certified eligible to apply for adjustment assistance benefits until March 16, 1980 (TA-W-2556).

U.S. imports of carbon steel bars and bar size light shapes, alloy steel bars, carbon steel wire, carbon steel wire rods, basic steel products (including blooms, slabs and billets), and rail accessories (including trackwork) declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

Sales and production of freight cars, railroad wheels, axles and circular forgings increased in the first quarter of 1980 compared to the same quarter in 1979.

In this case, therefore, the certifying officer has determined that all workers of the Conemaugh and Blacklick Railroad and the Johnstown, Pennsylvania plant of the Bethlehem Steel Corporation are denied eligibility

to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7462; Birmingham Southern Railroad Co., Birmingham, Ala.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United Transportation Union on behalf of workers at the Birmingham Southern Railroad Company in Birmingham, Alabama. Workers at the Birmingham Southern Railroad Company are engaged in the transportation of commodities.

The investigation revealed that criterion (2) has not been met.

A revenue car is a freight car handled by the company for which revenue is received. The total number of revenue cars hauled by the Birmingham Southern Railroad Company increased in 1979 compared to 1978 and remained constant in the first four months of 1980 compared to the like 1979 period.

In this case, therefore, the certifying officer has determined that all workers of the Birmingham Southern Railroad Company which is headquartered in Birmingham, Alabama are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7631; Bruce Cartage Co., Saginaw, Mich.

The investigation was initiated on April 21, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 332, on behalf of workers at Bruce Cartage Company, Inc., Saginaw, Michigan. The workers at Bruce Cartage Company, Inc. are engaged in providing the service of transporting freight by truck.

The investigation revealed that workers of Bruce Cartage Company, Inc., do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Bruce Cartage Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Bruce Cartage Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company which produces an article.

All workers engaged in transporting freight at Bruce Cartage Company, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Bruce Cartage Company, Inc. All employee benefits are provided and maintained by Bruce Cartage Company, Inc. Workers are not, at any time, under employment or supervision by customers of Bruce Cartage Company, Inc. Thus, Bruce Cartage Company, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Bruce Cartage Company, Saginaw, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7463; Canteen Corp., Detroit, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Canteen Corporation, Detroit, Michigan. The workers at Canteen Corporation are engaged in providing food services.

The investigation revealed that workers of Canteen Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Canteen Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Canteen Corporation and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company which produces an article.

All workers engaged in providing food services are employed by that firm. All personnel actions and payroll transactions are controlled by Canteen Corporation. All employee benefits are provided and maintained by Canteen Corporation. Workers are not, at any time, under employment or supervision by customers of Canteen Corporation. Thus, Canteen Corporation and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Canteen Corporation, Detroit, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7424; Central Foundry Co., Holt, Ala.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Central Foundry Company, Holt, Alabama. The workers produce cast iron soil pipes and fittings.

The investigation revealed that criterion (3) has not been met.

U.S. imports of cast iron pipes and fittings declined both absolutely and relative to domestic shipments in 1979 compared to 1978. The ratio of imports to domestic shipments did not exceed one-half of one percent during the period 1975 through 1979.

Company imports accounted for less than one-half of one percent of company shipments during the period October 1979 through March 1980.

A survey of major customers of Central Foundry Company was conducted by the Department. The survey revealed that customers did not purchase any imported cast iron soil pipes or fittings during 1978, 1979, or January-March 1980.

In this case, therefore, the certifying officer has determined that all workers of Central Foundry Company, Holt, Alabama are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7575, 7699, 7609, 7609A; Clinch Valley Coal Corp., Pigeon Branch Coal Co., Inc., Tazewell County, Va., McDowell County, W. Va.

The investigations were initiated on April 7, April 28, and April 14, 1980 in response to three petitions which were filed on behalf of workers at Clinch Valley Coal Corporation #2 Mine (TA-W-7575 and #1 Mine (TA-W-7699), Tazewell County, Virginia and Pigeon Branch Coal Company, Incorporated #7 Mine (TA-W-7609) Tazewell County, Virginia and #8 Mine (TA-W-7609A), McDowell County, West Virginia. Workers at all of the mines produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant in relation to

domestic production from 1975 through 1979. Imports of coke decreased absolutely and relative to domestic production in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that all workers of Clinch Valley Coal Corporation #1 Mine (TA-W-7575) and #2 Mine (TA-W-7699), Brewster Hollow, Tazewell County, Virginia and Pigeon Branch Coal Company, Incorporated, #7 Mine (TA-W-7609), Tazewell County, Virginia and #8 Mine (TA-W-7609A), Dry Fork, McDowell County, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7533; Dee Vee Manufacturing Co., Inc., Poughkeepsie, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Dee Vee Manufacturing Company, Incorporated, Poughkeepsie, New York. The workers produce ladies' dresses.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's and misses; dresses decreased absolutely in 1979 compared to 1978.

A Departmental survey of the manufacturers for whom Dee Vee Manufacturing performs contract work revealed that the manufacturers did not utilize foreign contractors nor import women's dresses in 1978 or 1979. While decreasing the amount of contract work given to Dee Vee in 1979 compared to 1978, these manufacturers increased their business with other domestic contractors over the same time period. The manufacturers experienced increasing sales from 1978 to 1979.

In this case, therefore, the certifying officer has determined that all workers of Dee Vee Manufacturing Company, Incorporated, Poughkeepsie, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7354; E & R Creations, Inc., New York, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at E & R Creations, Incorporated, New York, New York. Workers at E & R Creations, Incorporated produced women's fake fur coats and jackets.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, Misses', and children's coats and jackets decreased absolutely in 1979 compared to 1978.

The Department conducted a survey of some customers of the manufacturer for whom E & R worked. The results of this survey revealed that most of these customers did not purchase imports.

In this case, therefore, the certifying officer has determined that all workers of E & R Creations, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7416; Farwell Manufacturing, Inc., Farwell, Mich.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Farwell Manufacturing, Incorporated, Farwell, Michigan. The workers produce rear window molding.

The investigation revealed that criterion (3) has not been met.

The petitioner alleged that the importation of automobiles has affected the demand for rear window molding for automobiles. Automobiles cannot be considered to be like or directly competitive with rear window molding. Imports of rear window molding must be considered in determining import injury to workers producing rear window molding at Farwell Manufacturing.

A Departmental survey conducted with Farwell's customers revealed that customers did not purchase imported rear window molding in 1978, 1979 or in the first two months of 1980.

In this case, therefore, the certifying officer has determined that all workers of Farwell Manufacturing, Incorporated, Farwell, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7384; Gateway Industries, Inc., Michigan City, Ind.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers on behalf of workers at Gateway Industries, Incorporated, Michigan City, Indiana. The workers produce seat belts.

The investigation revealed that criterion (3) has not been met.

The petition cites increased imports of foreign automobiles and alleges a shift of production operations from Michigan City to a company facility in Mexico.

Seat belts cannot be considered to be like or directly competitive with automobiles. Imports of seat belts must be considered in determining import injury to workers producing seat belts at

Gateway Industries, Incorporated, Michigan City, Indiana.

Transfer of seat belt production by Gateway from Michigan City to the company plant in Mexico occurred prior to the earliest possible impact date. Imports of seat belts from Gateway's Mexican facility decreased in 1979 compared to 1978 and decreased in the first three months of 1980 compared to the same period in 1979.

Gateway Industries produces seat belts for two major automobiles manufacturers. A Department survey revealed that one of these customers did not purchase imported seat belts during 1978 or January–September 1979. The other customer increased purchases of domestically produced seat belts during January–September 1979 compared to the same period in 1978.

In this case, therefore, the certifying officer has determined that all workers of Gateway Industries, Incorporated, Michigan City, Indiana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7047; General Motors Corp., Delco-Remy Division, Olathe, Kans.

The investigation was initiated on February 11, 1980 in response to a petition which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.) on behalf of workers at Olathe, Kansas plant of the Delco-Remy Division of General Motors Corporation. Workers at the Olathe plant produce batteries.

The investigation revealed that criterion (3) has not been met.

In order to determine if increased imports contributed importantly to production and employment declines at General Motors Corporation component parts plants, the Department sought to determine the degree to which each plant was integrated into the production of General Motors cars, trucks, vans, and general utility vehicles which have been subject to import injury.

There were no significant layoffs at the Olathe plant until the second quarter of model year (MY) 1980. The plant was not substantially integrated into the production of trade-impacted vehicles during the initial months of MY 1980. A substantial proportion of the batteries produced at the plant in this period were sold to customers outside of the General Motors Corporation. Therefore imports of automobile batteries must be considered in determining import injury to workers at the Olathe plant.

U.S. imports of automobile batteries have not been significant compared with domestic production. The ratio of

imports to domestic production remained below three percent in each year from 1975 through 1979.

Plant sales to outside customers increased in the first four months of MY 1980 compared with the same MY 1979 period.

In this case, therefore, the certifying officer has determined that all workers of Olathe, Kansas plant of the Delco-Remy Division of General Motors Corporation are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7301; Globe Industries, Inc., Oregon, Ohio

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the Retail, Wholesale, and Department Store Union on behalf of workers at the Oregon, Ohio plant of Globe Industries, Incorporated. Workers at the Oregon plant produce acoustical insulation for automobiles.

The investigation revealed that criterion (3) has not been met.

Evidence developed during the course of the investigation revealed that imports of acoustical insulation declined in value absolutely and relative to domestic production in 1979 from 1978.

Petitioners allege that increased imports of automobiles have caused declines in sales, production and employment at the Oregon, Ohio plant of Globe Industries, Incorporated. Although imported automobiles incorporate acoustical insulation, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of acoustical insulation must be considered in determining import injury to workers producing acoustical insulation at the Oregon, Ohio plant of Globe Industries, Incorporated.

In this case, therefore, the certifying officer has determined that all workers of the Oregon, Ohio plant of Globe Industries, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7352; Harmony Mining Co., Johnstown, Pa., Portage, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at the Harmony Mining Company, Johnstown, Pennsylvania and Portage, Pennsylvania. Workers at the Harmony Mining Company produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

U.S. imports of metallurgical coal are negligible. Imports of coke, which is coal at a later stage of processing, decreased absolutely and relative to domestic production in 1979 compared with 1978 and in the first two months of 1980 compared with the same period of 1979.

The United Mine Workers of America, which represents all workers at Harmony's mine, was on strike from December 1977 through March 1978. Therefore, in order to eliminate the effects of the strike on sales and production at the Harmony Mining Company, the appropriate time periods for purposes of analysis are April to December 1979 compared with April to December 1978. Sales and production of metallurgical coal at Harmony increased in April to December 1979 compared to April to December 1978 before declining in the first three months of 1980 compared with the same period of 1979. The distributors to whom Harmony sells its coal do not purchase imported metallurgical coal or coke. These distributors reported that they reduced their purchases from Harmony in the first three months of 1980 compared with the same period of 1979 due to declines in their own coal sales. Surveyed major customers of these distributors indicated that they purchased no imported metallurgical coal or coke in the first three months of 1980.

In this case, therefore, the certifying officer has determined that all workers of the Harmony Mining Company, Johnstown, Pennsylvania and Portage, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7434; Harwood Manufacturing Co., Shipping Department, Marion, Va.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at the Marion, Virginia Shipping Department of the Harwood Manufacturing Company. The workers in the department ship primarily men's and boys' pajamas, robes and undershorts.

The investigation revealed that criterion (3) has not been met.

The declines in employment at the Shipping Department of the Harwood Manufacturing Company occurred in the first quarter of 1980 compared with the same period of 1979. Harwood's sales of men's and boys' pajamas and robes increased in the last quarter of 1979 compared with the same quarter of 1978 and increased in the first quarter of 1980 compared with the same period of 1979. The quarter to quarter declines were due to the seasonal nature of sales. Sales of pajamas and robes are

seasonally heavy during the September through Christmas period, and fall off significantly in the first four to five months of the year.

The Department surveyed all customers who decreased purchases of undershorts from Harwood in 1979 compared with 1978. None of the respondents reported any purchases of imported undershorts in 1978, 1979 or in the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of the Marion, Virginia Shipping Department of the Harwood Manufacturing Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7491; Herbert Kenzer, Inc., New York, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Herbert Kenzer, Incorporated, New York, New York. The workers produce ladies' coats.

The investigation revealed that criterion (3) has not been met.

Average employment at Herbert Kenzer, Incorporated, increased in 1978 compared to 1977 and remained essentially unchanged from 1978 to 1979. Average employment increased in the first quarter of 1980 compared to the first quarter of 1979. Average hours worked increased in 1979 compared to 1978. The average number of workers was relatively unchanged in each quarter of 1979 as compared to the corresponding quarter of 1978. All quarter to quarter employment declines are due to normal seasonal fluctuations.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that all workers of Herbert Kenzer, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7396; Imperial Cartage Co., St. Louis, Mo.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Imperial Cartage Company, St. Louis, Missouri. The workers at Imperial Cartage Company are engaged in providing the service of transporting trailers into and away from loading docks.

The investigation revealed that workers of Imperial Cartage Company do not produce an article within the

meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Imperial Cartage Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Imperial Cartage Company and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing a product.

All workers engaged in transporting trailers at Imperial Cartage Company are employed by that firm. All personnel actions and payroll transactions are controlled by Imperial Cartage Company. All employee benefits are provided and maintained by Imperial Cartage Company. Workers are not, at any time, under employment or supervision by customers of Imperial Cartage Company. Thus, Imperial Cartage Company and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Imperial Cartage Company, St. Louis, Missouri are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7800; Jo-Flo Coal Co., Inc., Tazewell, Va.

The investigation was initiated on April 28, 1980 in response to a petition which was filed on behalf of workers at Jo-Flo Coal Company, Incorporated. Workers at the mine produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

A domestic article may be "directly competitive with" an imported article at a later stage of processing (29 CFR 90.2). Coke is metallurgical coal at a later stage of processing. Imports of coke and imports of metallurgical coal may therefore be considered in determining import injury to workers mining coal which is processed into coke.

U.S. imports of metallurgical coal decreased absolutely and relative to domestic production from 1977 to 1978 and from 1978 to 1979. Imports of coal were insignificant in relation to domestic production from 1975 through 1979. Imports of coke decreased absolutely and relative to domestic production in 1979 compared to 1978 and

in the first two months of 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that all workers of Jo-Flo Coal Company, Incorporated, Tazewell, Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7418; Ligia Fashions, Inc., Newark, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Ligia Fashions, Incorporated. Workers at the Newark, New Jersey plant produce women's blazers and suit jackets.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats, jackets and suits decreased absolutely from 1978 to 1979.

A survey of manufacturers which contract orders from Ligia Fashions, Incorporated revealed that manufacturers which decreased orders from the subject firm did not increase purchases of imported women's blazers and suit jackets in 1979 compared with 1978 and in the first four months of 1980 compared with the same period of 1979. These manufacturers also reported no foreign contract work for the same periods.

In this case, therefore, the certifying officer has determined that all workers of Ligia Fashions, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7319; Louis Goldstein, Inc., New York, N.Y.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the International Ladies' Garment Workers' Union on behalf of workers at Louis Goldstein, Incorporated, New York, New York. The workers produced ladies' coats.

The investigation revealed that criterion (3) has not been met.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in 1979 compared to 1978.

Most surveyed customers that decreased purchases from Louis Goldstein, Incorporated either did not increase imports of ladies' coats, or had increased purchases from other domestic sources during the period under investigation.

In this case, therefore, the certifying officer has determined that all workers of Louis Goldstein, Incorporated, New York, New York are denied eligibility to

apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7356: Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Mich.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Michigan. The workers produce specialty nuts.

The investigation revealed that criterion (3) has not been met.

U.S. imports of specialty fasteners, including nuts, were negligible during 1978 and 1979. Total U.S. imports of nuts decreased both absolutely and relative to domestic production during 1979 compared to 1978. A survey of customers who have purchased nuts from the Detroit Diamond Division of Microdot Manufacturing, Incorporated was conducted by the Department. Results revealed that all of the surveyed customers indicated that they did not increase purchases of imported nuts while reducing purchases from Detroit Diamond during 1979. One customer reported reducing purchases from Detroit Diamond while increasing purchases of imported nuts during the first quarter of 1980; this customer represented only a small percentage of Detroit Diamond's sales decline during that quarter.

The petitioners allege, in part, that increased imports of automobiles contributed importantly to the decline in sales or production and to the separation of workers producing specialty nuts at Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Michigan.

Automobiles cannot be considered to be like or directly competitive with specialty nuts. Imports of specialty nuts must be considered in determining import injury to workers producing specialty nuts.

In this case, therefore, the certifying officer has determined that all workers of Microdot Manufacturing, Inc., Detroit Diamond Division, Wyandotte, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7455: Miller Plating Corp., Jackson, Mich.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Miller Plating Corporation, Jackson, Michigan. The workers at Miller Plating are engaged in providing the services of painting and plating primarily automotive parts for manufacturers of

those parts. These operations are performed pursuant to contracts with the manufacturers. Miller Plating does not own any of the parts it paints or plates.

The investigation revealed that workers of Miller Plating Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Miller Plating Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Miller Plating Corporation and its customers have no controlling interest in one another. The subject firm is corporately affiliated with a company, but that company is not a customer of Miller Plating Corporation.

All workers engaged in painting and plating automotive products at Miller Plating Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by Miller Plating Corporation. All employee benefits are provided and maintained by Miller Plating Corporation. Workers are not, at any time, under employment or supervision by customers of Miller Plating Corporation. Thus, Miller Plating Corporation, and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of the Miller Plating Corporation, Jackson, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7265: Phillips Ford, Inc., Butte, Mont.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Phillips Ford, Inc., Butte, Montana. The workers are engaged in the sales and servicing of automobiles and trucks.

The investigation revealed that workers of Phillips Ford, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Phillips Ford, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose

workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Phillips Ford, Inc. and its suppliers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in the sales and servicing of automobiles and trucks at Phillips Ford, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Phillips Ford, Inc. All employee benefits are provided and maintained by Phillips Ford, Inc. Workers are not, at any time, under employment or supervision by suppliers of Phillips Ford, Inc. Thus, Phillips Ford, Inc. and not any of its suppliers, must be considered to be the "workers' firms".

In this case, therefore, the certifying officer has determined that all workers of Phillips Ford, Inc., Butte, Montana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7497: Puerto Rico Chemical Co., Arecibo, P.R.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Puerto Rico Chemical Company, Arecibo, Puerto Rico. Workers at the Arecibo plant produced phthalic anhydride.

The investigation revealed that criterion (3) has not been met.

U.S. imports of phthalic anhydride declined both absolutely and relative to domestic shipments in 1978 compared to 1977, and in 1979 compared to 1978.

The Arecibo plant of the Puerto Rico Chemical Company was never fully restored after an explosion which occurred on July 10, 1979.

In this case, therefore, the certifying officer has determined that all workers of Puerto Rico Chemical Company, Arecibo, Puerto Rico are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7437: U.S.M. Corp., Bailey Division, Seabrook, N. H.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Bailey Division of U.S.M. Corporation, Seabrook, New Hampshire. Workers primarily produce front ends and insulators for automobiles.

The investigation revealed that criterion (3) has not been met.

U.S. imports of motor vehicle bumpers decreased absolutely and relative to

domestic production from 1977 to 1978 and from 1978 to 1979.

Industry sources indicate that U.S. imports of insulators, including weatherstripping and window-glass run channels, were negligible in 1978 and 1979.

A Department survey of the customers of U.S.M. Corporation, Bailey Division revealed that none of the customers surveyed increased purchases of imported automotive weatherstripping and window-glass run channels from 1978 to 1979.

A survey revealed that customers which increased purchases of grilles from foreign sources also increased in-house production and purchases from other domestic sources. Customers indicated that purchases of imported grilles represented an insignificant proportion of total purchases.

Petitioners allege that increased imports of automobiles have caused decreases in production and employment at U.S.M. Corporation, Bailey Division. Although imported automobiles incorporate automotive front ends and insulators, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of automotive bumpers, grilles and insulators must be considered in determining import injury to workers producing automotive front ends and insulators at U.S.M. Corporation, Bailey Division.

In this case, therefore, the certifying officer has determined that all workers of the Bailey Division of U.S.M. Corporation, Seabrook, New Hampshire are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7386; U.S. Pool Car, Inc., Melvindale, Mich.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at U.S. Pool Car, Inc., Melvindale, Michigan. The workers at U.S. Pool Car, Inc. are engaged in providing the service of loading and unloading automotive parts.

The investigation revealed that workers of U.S. Pool Car, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to U.S. Pool Car, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the

statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

U.S. Pool Car, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any company producing a product.

All workers engaged in loading and unloading automotive parts at U.S. Pool Car, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by U.S. Pool Car, Inc. All employee benefits are provided and maintained by U.S. Pool Car, Inc. Workers are not, at any time, under employment or supervision by customers of U.S. Pool Car, Inc. Thus, U.S. Pool Car, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of U.S. Pool Car, Inc., Melvindale, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7382; U.S. Steel Corp., U.S. Steel Supply Division, Indianapolis, Ind.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the Teamsters on behalf of workers at the U.S. Steel Supply Division of the U.S. Steel Corporation, Indianapolis, Indiana. Workers at the Indianapolis, Indiana facility sell steel products.

The investigation revealed that criterion (3) has not been met.

The U.S. Steel Supply Division of the U.S. Steel Corporation sells a wide variety of steel products produced at company steel mills. The product mix distributed by the Supply Division essentially constitutes a cross section of the product mix produced by the U.S. Steel Corporation.

Imports of all steel products declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

Although sales made by the Indianapolis facility increased in 1979 compared to 1978, the facility was closed on March 1, 1980. The facility was closed as a result of a company decision to consolidate distribution operations. Former customers of the Indianapolis facility are now being served from the company's facility in Chicago, Illinois.

In this case, therefore, the certifying officer has determined that all workers of the U.S. Steel Supply Division of the U.S. Steel Corporation in Indianapolis, Indiana are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA-W-7451; Wabash Transformer Corp., Farmington, Mo.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at the Wabash Transformer Corporation. Workers at the Farmington, Missouri plant produce transformers and rectifiers.

The investigation revealed that criterion (3) has not been met.

With Respect to Workers Producing Transformers

All of the transformers produced by the company were utilized in the construction of televisions. The function previously performed by the transformers is currently being performed by integrated circuits which are not produced by the company. Integrated circuits, which are the result of recent advances in electronic technology, are more dependable, efficient and less costly to produce than the transformers which they replaced.

With Respect to Workers Producing Rectifiers

The Wabash Transformer Corporation is a subsidiary of Wabash, Inc. All of the rectifiers produced by the Wabash Transformer Corporation were utilized by another company subsidiary in the production of generators and alternators which were designed as replacement parts for automobiles.

Imports of battery charging generators and alternators declined both absolutely and relative to domestic shipments in 1979 compared to 1978. The ratio of imports to domestic shipments was less than 3 percent in both 1978 and 1979.

The petitioners allege that imports of automobiles contributed to a decline in employment and sales or production at their company. Imported automobiles cannot be considered like or directly competitive with rectifiers. As all of the rectifiers produced by the company are used by the company in the production of alternators and generators, imports of alternators and generators must be considered in determining import injury to workers producing rectifiers at the Wabash Transformer Corporation.

In this case, therefore, the certifying officer has determined that all workers of the Wabash Transformer Corporation, Farmington, Missouri are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 26-30th, 1980.

Dated: June 2, 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17230 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7173]

Plakie, Inc.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on February 25, 1980 in response to a worker petition received on February 8, 1980 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing infant accessories, including rattles, at the Youngstown, Ohio plant of Plakie, Incorporated. The infant accessories produced at this plant are separated into two product lines—plastic nursery products and soft goods (also known as sewing items).

Workers Engaged in Employment Related to the Production of the Soft Goods Product Line

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers engaged in employment related to the production of the soft goods product line:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production and employment declines related to the soft goods product line at the Youngstown, Ohio plant of Plakie, Incorporated are attributable to a domestic transfer of production.

Plakie, Incorporated opened a plant in Quincy, Florida in 1977 to produce exclusively soft goods. Production of soft goods at the Youngstown plant began to decline in the third quarter of 1979 and continued to decline in the fourth quarter 1979 and in the January-February period of 1980 as compared to

the corresponding period of the previous year. In the third quarter of 1979, the company began to transfer soft goods production from the Youngstown plant to the Quincy, Florida plant. Production of soft goods at the Quincy, Florida plant increased substantially from 1978 to 1979 and in January-February 1980 compared to January-February 1979. Company-wide production of soft goods articles was constant from 1978 to 1979 and increased in January-February 1980 compared to the same period in 1979.

Company sales of soft goods increased in value in each quarter in 1979 compared to the same quarter in 1978, and in January and February 1980 compared to the like period of 1979.

Workers Engaged in Employment Related to the Production of Plastic Nursery Products.

With respect to workers engaged in employment related to the production of plastic nursery products, all of the criteria have been met.

U.S. imports of infants' toys, excluding dolls and stuffed toys, increased absolutely and relative to domestic production in 1978 compared to 1977. Imports increased absolutely in 1979 when compared to the average level of imports for the period of 1976-1978.

Production of plastic nursery products at the Youngstown, Ohio plant of Plakie, Incorporated began to decrease in the second quarter of 1979 compared to the like quarter in 1978 and continued to decrease in the last two quarters of 1979 compared to the same quarters in 1978. Production also decreased in January and February 1980 compared to the same periods in 1979.

The average number of workers in the Plastics Department decreased in each quarter of 1979 compared to the same quarter of 1978 and decreased in the first two months of 1980 compared to the same months in 1979.

Plakie, Incorporated imported some plastic rattles in 1978. In September 1979, the company began to import plastic nursery products on a regular basis. Imports of plastic nursery products increased substantially from 1978 to 1979 and in January-February 1980 compared to January-February 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with plastic nursery products produced at the Youngstown, Ohio plant of Plakie, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers

engaged in employment related to the production of plastic nursery products. In accordance with the provisions of the Act, I make the following certification:

All workers of Plakie, Incorporated, Youngstown, Ohio engaged in employment related to the production of plastic nursery products who became totally or partially separated from employment on or after November 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all workers of Plakie, Incorporated, Youngstown, Ohio, engaged in employment related to the production of soft goods (also known as sewing items), are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 2d day of May 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-17237 Filed 6-5-80; 8:45]

BILLING CODE 4510-28-M

[TA-W-7477]

Robertson & Associates (Alabama), Inc., Fabius Mine; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 31, 1980, in response to a worker petition received on February 18, 1980, which was filed on behalf of workers and former workers at the Fabius Mine, Fabius, Alabama of Robertson & Associates (Alabama), Inc. Workers at the Fabius Mine produced bituminous coal.

Notice of the Investigation was published in the *Federal Register* on March 31, 1980 (45 FR 23099-100). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers at Fabius Mine were previously denied eligibility to apply for adjustment assistance on October 25, 1979 (TA-W-6156). That investigation was initiated on October 4, 1979 in response to a worker petition which had been signed on September 24, 1979.

The mine in question was shut down and employment of all workers was terminated in August 1979.

Since the previous investigation was conducted after the mine closed, and since the mine has never since reopened, and since no new evidence has been presented which contradicts the findings of the previous investigation, the findings of the previous investigation are still valid and

further investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 30th day of May 1980.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17238 Filed 6-5-80; 8:45 am]
BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period May 26-30, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA-W-7431; Acme Optical Manufacturing Co., Inc., Providence, R.I.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Acme Optical Manufacturing Company, Incorporated, Providence, Rhode Island. The workers produced metal framed sunglasses.

U.S. imports of sunglasses increased absolutely from 1977 to 1978 and increased relative to domestic production from 1977 to 1978 and from 1978 to 1979.

All metal framed sunglasses produced by Acme Optical were sold to Opti-Ray, Incorporated. A departmental survey was conducted of a random sample of Opti-Ray's customers who purchased metal-framed sunglasses produced by Acme in 1978, 1979 and 1980. This survey revealed that, in aggregate, respondents to the random sample increased their reliance on imported metal-framed sunglasses to satisfy their sunglass demand from 1978 to 1979 and during the first quarter of 1980 compared to the same period in 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Acme Optical Manufacturing Company, Incorporated, Providence, Rhode Island who became totally or partially separated from employment on or after March 4, 1979 and before April 30, 1980 are eligible to apply for adjustment

assistance under Section 223 of the Trade Act of 1974.

TA-W-7414; Ameri-Tex, Industries, Showhegan, Maine

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Ameri-Tex Industries, Skowhegan, Maine. The workers produce shoe and boot soles and heels.

U.S. imports of both nonleather bottom stock materials for footwear and leather soling materials reached a four-year high in 1978 before declining in 1979.

A survey conducted by the Department of Commerce revealed that a major customer reduced purchases from Ameri-Tex Industries while increasing purchases of imported shoe soles in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Ameri-Tex Industries, Showhegan, Maine who became totally or partially separated from employment on or after February 28, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7521; Clair Glove Co., Gloversville, N.Y.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers at Clair Glove Company, Gloversville, New York. The workers produced sport gloves.

U.S. imports of sport gloves increased absolutely in 1978 compared to 1977, and in 1979 compared to 1978.

A Departmental survey of customers which purchased sport gloves from Clair Glove Company indicated that these customers increased their reliance on imported sport gloves in 1979 compared to 1978 and in the first quarter of 1980 compared to the first quarter of 1979.

The survey further revealed that customers intend to increase their reliance on imported sport gloves in the future due to price considerations.

In this case, therefore, the certifying officer has determined that:

All workers of Clair Glove Company, Gloversville, New York who became totally or partially separated from employment on or after February 4, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7375, 7375a; Eastland Woolen Mill, Inc., Basin Mill, Inc., Corinna, Maine

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Eastland Woolen Mill, Incorporated,

Corinna, Maine. The investigation was expanded to include workers at Basin Mill, Incorporated, Corinna, Maine. The workers produce finished woolen fabric.

U.S. imports of finished wool fabric increased absolutely in 1979 compared to 1978.

A survey conducted by the Department revealed that customers representing a significant portion of the subject firm's sales declines reduced purchases from other domestic manufacturers and increased purchases of imported finished wool fabric during the period under investigation.

In this case, therefore, the certifying officer has determined that:

All workers of Eastland Woolen Mill, Incorporated and Basin Mill, Incorporated, Corinna, Maine who became totally or partially separated from employment on or after March 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7341; Garment Makers, Inc., Brooklyn, N.Y.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at Garment Makers, Incorporated, Brooklyn, New York. The workers produce ladies' coats.

U.S. imports of women's, misses' and children's coats and jackets increased both absolutely and relative to domestic production in each year from 1975 through 1978 inclusive. The ratio of imports to domestic production exceeded 50 percent from 1976 through 1978.

Customers responding to a survey conducted by the U.S. Department of Labor, decreased purchases from Garment Makers, Incorporated and increased purchases of imported ladies' coats in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Garment Makers, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7603; General Motors Corp., Delco Products Division, Rochester, N.Y.

The investigation was initiated on April 14, 1980 in response to a petition which was filed by the International Union of Electrical, Radio and Machine workers on behalf of workers at the Rochester, New York plant of the Delco Products Division of General Motors Corporation. The workers at the Rochester plant produce small electric motors for automobiles.

In order to determine if increased imports contributed importantly to production and employment declines at General Motors Corporation component parts plants, the Department sought to determine the degree to which each facility was integrated into the production of General Motors cars, trucks, vans, and general utility vehicles which have been subject to import injury. Where substantial integration was established the Department considered imports of "like or directly competitive" cars, trucks, vans and general utility vehicles in determining import injury to workers producing component parts at the various plants.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at 18 of General Motors Corporation's car and truck assembly plants (TA-W-6783, 6917, 6999-7000, 7009, 7015-16, 7059, 7071, 7073-76, 7078-82). Workers at these plants are engaged in production of one or more of the following car or truck lines: mid-size, standard and luxury/specialty cars, pick-up trucks, vans, and general utility vehicles.

During the course of the investigation, it was established that the Rochester, New York plant of the Delco Products Division produced a significant proportion of its output for use in the GM car and truck lines which have been subject to import injury.

In this case, therefore, the certifying officer has determined that:

All workers of the Rochester, New York plant of the Delco Products Division of General Motors Corporation who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7430; *La Moda Fashions, Inc.; Paterson, N.J.*

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at La Moda Fashions, Incorporated, Paterson, New Jersey. The workers produce ladies' coats.

U.S. imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production has exceeded 50.0% in every year since 1976.

A surveyed major customer of La Moda Fashions, Incorporated decreased purchases from the subject firm and increased purchases of imported coats in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of La Moda Fashions, Incorporated, Paterson, New Jersey who became totally or partially separated from employment on or after August 24, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7494; *Merrill Sharpe, Limited, New York, N.Y.*

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers of Merrill Sharpe, Limited, New York, New York. The workers produced men's woven sport and dress shirts.

U.S. imports of men's and boys' woven sport shirts, dress shirts and business shirts increased in quantity from 1978 to 1979.

The Department conducted a survey of customers which purchased men's woven sport and dress shirts from Merrill Sharpe, Limited. Some surveyed customers of Merrill Sharpe, Limited decreased purchases from the subject firm and increased purchases of imported men's woven sport and dress shirts from 1978 to 1979.

Merrill Sharpe, Limited closed its New York City manufacturing facility in April 1980. The firm continues to operate its New York City sales office. No layoffs occurred at the sales office in 1979 or the first four months of 1980.

In this case, therefore, the certifying officer has determined that all workers of the New York, New York manufacturing facility of Merrill Sharpe, Limited who became totally or partially separated from employment on or after August 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7419; *Olympic Juniors, Inc., Newark, N.J.*

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at Olympic Juniors, Incorporated, Newark, New Jersey. The workers produce ladies' sportswear and suits.

U.S. imports of women's, misses' and children's skirts increased absolutely from 1977 to 1978 and from 1978 to 1979.

U.S. imports of women's, misses' and children's coats and jackets, slacks and shorts, and suits increased absolutely and relative to domestic production in 1978 compared to 1977.

A Department survey of manufacturers for which Olympic Juniors does contract work revealed that manufacturers representing the majority of contract work done by Olympic

Juniors in 1978 and 1979 reduced contracts with Olympic Juniors and other domestic sources in 1979 compared to 1978 while increasing contracts with foreign sources. Orders to Olympic Juniors increased during the first quarter of 1980 compared to the first quarter of 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Olympic Juniors, Incorporated, Newark, New Jersey who became totally or partially separated from employment on or after February 28, 1979 and on or before January 4, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7417; *Seiberling Latex Products, Inc.; Oklahoma City, Okla.*

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers at Seiberling Latex Products, Incorporated, Oklahoma City, Oklahoma. The workers produce primarily latex gloves.

U.S. imports of household and industrial gloves increased absolutely and relative to domestic production from 1978 to 1979.

A Departmental survey was conducted among a random sample of customers who purchased household gloves and industrial gloves from Seiberling latex. The survey revealed that, in aggregate, household glove customers responding to the random sample, substantially increased their reliance on imported household glove from 1978 to 1979 and in the first quarter of 1980 compared to the first quarter of 1979. Customers who purchased industrial gloves from Seiberling also increased their reliance on imported industrial gloves to satisfy their glove demand in the first quarter of 1980 compared to the first quarter of 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Seiberling Latex Products, Incorporated, Oklahoma City, Oklahoma who became totally or partially separated from employment on or after April 1, 1979 and before May 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7401; *Springfield Machine & Stamping, Inc. Warren, Mich.*

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Springfield Machine and Stamping, Inc., Warren, Michigan. The workers produce exterior automotive trim (metal molding).

Imports of exterior automotive trim (metal molding) increased both

absolutely and relative to domestic shipments in 1979 compared to 1978.

A Department of Labor survey revealed that customers decreased purchases from Springfield and increased purchases of imported exterior automotive trim in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Springfield Machine and Stamping, Inc., Warren, Michigan who became totally or partially separated from employment on or after February 13, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7415; Strausbaugh Dodge, Inc., Youngstown, Ohio

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Strausbaugh Dodge, Incorporated, Youngstown, Ohio. The workers were engaged in the sale and servicing of Dodge cars and trucks.

Prior to its closing in February 1980, Strausbaugh Dodge, Incorporated sold and serviced all Dodge car and truck lines which Chrysler Corporation marketed in the United States. Since workers at Strausbaugh Dodge, Incorporated did not produce an article within the meaning of Section 222 (3) of the Trade Act, they may be certified only if their separation was importantly caused by a reduced demand for their services from either the parent firm or from a firm otherwise related to Strausbaugh Dodge, Incorporated by ownership or control. In either case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly and substantially relate to the product or products adversely impacted by imports.

The Department determined that sales and employment declines at Strausbaugh Dodge, Incorporated, a wholly owned subsidiary of Chrysler Corporation, were directly and substantially related to increased imports of articles like or directly competitive with Dodge car and truck lines produced by Chrysler Corporation. Sales of trade-impacted Dodge cars and trucks accounted for a major proportion of the total sales of Strausbaugh Dodge, Incorporated in both 1978 and 1979. Production of these car and truck lines declined significantly from MY 1978 to MY 1979 at Chrysler's Hamtramck, Newark, St. Louis, Lynch Road, Jefferson, Warren Truck, and Missouri Truck assembly plants. Certifications were issued on behalf of workers at all

seven of these facilities on November 6, 1979 (TA-W-5979-83, 6037-38).

In this case, therefore, the certifying officer has determined that:

All workers of Strausbaugh Dodge, Incorporated, Youngstown, Ohio, who became totally or partially separated from employment on or after October 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 26-30th, 1980.

Signed at Washington, D.C. this 2nd day of June 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17229 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Affirmative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of certifications of eligibility to apply for worker adjustment assistance issued during the period May 19-23rd, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

In the following cases it has been concluded that all of the criteria have been met.

TA-W-7298; Belmont Garment Co., Cambridge, Mass.

The investigation was initiated on March 10, 1980 in response to a petition which was filed on behalf of workers at Belmont Garment Company, Cambridge, Massachusetts. The workers produce men's topcoats and raincoats.

U.S. imports of men's and boy's nontailored outer jackets and men's water repellent rainwear increased in 1978 compared with 1977.

Surveyed customers of Belmont Garment Company reported that they had decreased purchases of men's topcoats and raincoats from the subject firm and increased their reliance on foreign sources for similar items during the period under investigation.

In this case, therefore, the certifying officer has determined that:

All workers of Belmont Garment Company, Cambridge, Massachusetts who became totally or partially separated from employment on or after February 15, 1979 are

eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7385; Camel Manufacturing Co., Inc., Knoxville, Tenn.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Textile Workers of America on behalf of workers at Camel Manufacturing Company, Incorporated, Knoxville, Tennessee. The workers produce tents.

U.S. imports of tents and tarpaulins increased both absolutely and relative to domestic production in 1979 compared to 1978.

Company imports of commercial nylon tents increased, in value, in 1978 compared to 1977 and increased, in both quantity and value, in 1979 compared to 1978. Imports increased as a percent of total commercial tent sales from 1977 to 1978 and from 1978 to 1979.

Production of commercial nylon tents at Camel Manufacturing declined from 1977 to 1978 and from 1978 to 1979, ceasing entirely by August 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Camel Manufacturing Company, Incorporated, Knoxville, Tennessee who became totally or partially separated from employment on or after May 1, 1979 and before November 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7353 & TA-W-7353A; Fairhaven Corp., Clemente Handbags, Inc., New Bedford, Mass.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the International Leather Goods, Plastic and Novelty Workers Union on behalf of workers at Fairhaven Corporation, New Bedford, Massachusetts (TA-W-7353) and its subsidiary Clemente Handbags, Incorporated, New Bedford, Massachusetts (TA-W-7353A). The worker produce ladies' handbags.

U.S. imports of handbags increased absolutely and relative to domestic production in 1979 compared to the annual average imports for the 1975-1978 period. U.S. imports increased absolutely in January-February 1980 compared to January-February 1979.

Company imports of handbags increased in dollar value and relative to company sales in 1979 compared to 1978. Company imports of handbags increased in dollar value in January-February 1980 compared to January-February 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Fairhaven Corporation, New Bedford, Massachusetts and all workers of Clemente Handbags, Incorporated, New Bedford, Massachusetts who became totally or partially separated from employment on or after March 31, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7514, 7514-A; Pyr-A-Larm, Inc., Brewer, Maine, and Cedar Knolls, N.J.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Pyr-A-Larm, Incorporated, Brewer, Maine. The investigation was expanded to include workers at Pyr-A-Larm, Incorporated, Cedar Knolls, New Jersey. The workers produce primarily residential smoke detectors.

Company imports of smoke detectors from Canada increased in 1979 compared to 1978 and in the first quarter of 1980 compared to the same quarter in 1979.

For the purposes of this analysis, Pyr-A-Larm's imports from Canada constitute aggregate imports of smoke detectors for the subject firm's market.

Production of smoke detectors was transferred from Brewer to a corporate facility in Canada in May 1980. Production at the Brewer plant ceased at the end of April, 1980.

Some administrative and marketing operations for smoke detectors were eliminated at Cedar Knolls as a result of the transfer of production to Canada.

In this case, therefore, the certifying officer has determined that:

All workers of Pyr-A-Larm, Incorporated, Brewer, Maine (TA-W-7514) who became totally or partially separated from employment on or after March 1, 1980 and before June 30, 1980 and Cedar Knolls, New Jersey (TA-W-7514-A) who became totally or partially separated from employment on or after September 30, 1979 and before June 30, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7377 and 7377A; Royal Park, Inc., Coleman, Tex., Fort Stockton, Tex.

The investigation was initiated on March 17, 1980 in response to a petition which was filed on behalf of workers at the Coleman, Texas plant of Royal Park, Incorporated. The investigation was expanded to include the Fort Stockton facility of Royal Park, Incorporated. The workers at both facilities produced ladies' sportswear.

U.S. imports of women's misses' and children's slacks and shorts, blouses and shirts, skirts and coats and jackets increased both absolutely and relative to domestic production in 1978 compared to 1977. Imports of women's, misses' and children's skirts increased

absolutely in 1979 compared to 1978. Imports of women's, misses' and children's blouses and shirts and slacks and shorts increased in 1979 as compared to the average level of imports for the period of 1975-1978.

U.S. imports of women's misses' and children's slacks and shorts, blouses and shirts, and coats and jackets increased absolutely in each consecutive year from 1976 through 1978. The ratio of imports to domestic production for women's, misses', and children's slacks and shorts in 1978 was 49.3 percent; for blouses and shirts the ratio was 67.1 percent in 1978; and for coats and jackets the ratio was 69.3 percent in 1978.

The Department conducted a survey of customers of Royal Park, Incorporated. A major customer, who accounted for a significant proportion of Royal Park's sales, decreased its purchases of ladies' sportswear from Royal Park and from other domestic sources and increased its imports of ladies' sportswear in 1979 compared to 1978.

In this case, therefore, the certifying officer has determined that:

All workers of the Coleman, Texas plant (TA-W-7377) and the Fort Stockton, Texas plant (TA-W-7377A) of Royal Park, Incorporated who became totally or partially separated from employment on or after February 9, 1979 and before April 1, 1980 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

TA-W-7488; Siltan Brothers, Inc., Los Angeles, Calif.

The investigation was initiated on March 31, 1980 in response to a petition which was filed on behalf of workers at Siltan Brothers, Inc., Los Angeles, California. The workers produce men's leather coats and jackets.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production in each year compared to the previous year from 1975 through 1978. U.S. imports of leather coats and jackets increased absolutely and relative to domestic production during 1979 compared to the average for the 1975-78 period. The ratio of imports to domestic production was 96.8 during 1979.

Production of men's leather coats and jackets at the Los Angeles plant of Siltan Brothers, Inc. declined from 1978 to 1979 and in the first 4 months of 1980 compared to the first 4 months of 1979.

Average employment at the Los Angeles plant declined from 1978 to 1979 and in the first 4 months of 1980 compared to the first 4 months of 1979.

Siltan Brothers, Inc. has transferred production of men's leather coats and

jackets from its Los Angeles plant to a company facility in Juarez, Mexico. The company increased imports from the Mexican plant in 1979 compared to 1978 and in the first 4 months of 1980 compared to the first 4 months of 1979.

In this case, therefore, the certifying officers have determined that:

All workers of Siltan Brothers, Inc., Los Angeles, California who became totally or partially separated from employment on or after March 3, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7372; Stevens Paper Mills, Inc.; Westfield, Mass.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Paperworkers International Union on behalf of workers at Stevens Paper Mills, Incorporated, Westfield, Massachusetts. The workers produced kraft capacitor tissue. Stevens Paper Mills, Incorporated closed in April, 1980.

U.S. imports of kraft condenser paper increased both absolutely and relative to domestic production from 1977 to 1978 and increased relative to domestic production from 1978 to 1979.

A Departmental survey conducted with Stevens' customers revealed that customers increased their purchases of imported kraft capacitor tissue and decreased their purchases of kraft capacitor tissue from Stevens from 1978 to 1979 and in the first quarter of 1980 compared to the like period in 1979.

In this case, therefore, the certifying officer has determined that:

All workers of Stevens Paper Mills, Incorporated, Westfield, Massachusetts who became totally or partially separated from employment on or after April 2, 1979 and before April 30, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7247; Stride Rite Manufacturing Corp., Boston, Mass.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Stride Rite Manufacturing Corporation, Boston, Massachusetts. The workers produce children's dress and casual shoes.

U.S. imports of children's nonrubber footwear and misses' nonrubber footwear, except athletic, increased absolutely and relative to domestic production in 1979 compared with 1978.

A survey of customers of Stride Rite Manufacturing Corporation revealed that major customers increased purchases of imported children's footwear and decreased purchases from

the subject firm in 1979 compared with 1978.

In this case, therefore, the certifying officer has determined that:

All workers of Stride Rite Manufacturing Corporation, Boston, Massachusetts who became totally or partially separated from employment on or after February 28, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 19-23rd, 1980.

Dated: June 2, 1980.

Harold B. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17231 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of negative determinations regarding eligibility to apply for worker adjustment assistance issued during the period May 19-23rd, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of workers in worker's firm, or an appropriate subdivision thereof, have come totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-7412; Camp International, Inc. Warrior, Ala.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the International Ladies' Garment Workers Union on behalf of workers at the Warrior, Alabama plant of Camp International, Incorporated. Prior to July 1979, the Warrior, Alabama plant was known as Warrior Surgical Supply. Workers at the Warrior, Alabama plant produced

breast prosthetics, mastectomy brassieres, and orthopedic girdles.

The investigation revealed that criterion (3) has not been met.

U.S. imports of orthopedic and prosthetic devices, which includes breast prosthetics and orthopedic girdles, are insignificant relative to domestic production and consumption of those articles. Imports of breast prosthetics by Camp International are also insignificant relative to total sales of breast prosthetics by the company.

Sales of mastectomy brassieres by Camp International increased in 1979 compared with 1978 and continued to increase during the first quarter of 1980 compared to the first quarter of 1979. Production of the brassieres by the Warrior, Alabama plant also increased steadily during every quarter of 1979 compared to the corresponding quarter of 1978 and continued to increase up until the time of its closing in March 1980. The production demand for mastectomy brassieres is now being filled by other locations of Camp International.

In this case, therefore, the certifying officer has determined that all workers at the Warrior, Alabama plant of Camp International, Incorporated are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7355; City Auto Stamping Co., Division of Sheller-Globe, Toledo, Ohio

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Autoworkers on behalf of workers at City Auto Stamping Company, Toledo, Ohio. Workers at the City Auto Stamping plant produce metal stampings of parts for automobiles and trucks.

The investigation revealed that criterion (3) has not been met.

U.S. imports of motor vehicle body stampings are negligible. Industry sources cited prohibitive shipping costs and the need to have the stamping factory in close proximity to the auto assemble site to closely monitor accuracy of the specifications as reasons for the negligible imports.

A Department survey revealed no customers that imported metal stamping auto and truck parts in 1978, 1979 or the first three months of 1980.

In this case, therefore, the certifying officer has determined that all workers of City Auto Stamping Company, Division of Sheller-Globe, Toledo, Ohio are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7347; Firestone Tire and Rubber Co., Pottstown, Pa.

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of American on behalf of workers at the Pottstown, Pennsylvania plant of the Firestone Tire and Rubber Company. Workers at Pottstown plant produce primarily passenger car and truck tires.

The investigation revealed that criterion (3) has not been met.

The Department surveyed major customers and a random sample of the smaller customers of Firestone who purchase passenger car tires. The respondents' reliance on imports of passenger car tires was not significant and was substantially below the industry-wide levels of imports in 1978 and 1979.

The Department surveyed major customers and a random sample of the smaller customers of Firestone who purchase truck tires. Most customers from both groups indicated that they either did not import or decreased imports of truck tires in 1979 compared with 1978. Customers who decreased purchases of truck tires from Firestone and increased import represented an insignificant proportion of truck tire sales for Firestone.

In this case, therefore, the certifying officer has determined that all workers of the Pottstown, Pennsylvania plant of the Firestone tire and Rubber Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7264; Fisco Employees Federal Credit Union, Chicopee, Mass.

The investigation was initiated on March 3, 1980 in response to a petition which was filed on behalf of workers at Fisco Employees Federal Credit Union, Chicopee, Massachusetts. The workers at Fisco Employees Federal Credit Union are engaged in providing banking services.

The investigation revealed that workers of Fisco Employees Federal Credit Union do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Fisco Employees Federal Credit Union by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and

that reduction must directly relate to the product impacted by imports.

Fisco Employees Federal Credit Union and its customers and their employers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in providing banking services at Fisco Employees Federal Credit Union are employed by that firm. All personnel actions and payroll transactions are controlled by Fisco Employees Federal Credit Union. All employee benefits are provided and maintained by the Fisco Employees Federal Credit Union. Workers are not, at any time, under employment or supervision by customers of the Fisco Employees Federal Credit Union or their employers. Thus, Fisco Employees Federal Credit Union and not any of its customers, nor their employers must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Fisco Employees Federal Credit Union, Chicopee, Massachusetts are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7421; General Foods Corp., Maxwell House Division; Hoboken, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the Amalgamated Food and Allied Workers of America on behalf of workers at General Foods Corporation, Maxwell House Division, Hoboken, New Jersey. The workers produce ground roast and soluble coffee.

The investigation revealed that criterion (3) has not been met.

Production of coffee at the Hoboken plant declined in fiscal year (FY) ending March 31, 1980 compared to fiscal year ending March 31, 1979. However, company-wide sales and production of coffee, in quantity, by the Maxwell House Division were essentially constant in FY ending March 31, 1980 compared to FY ending March 31, 1979. Total company imports of soluble coffee decreased in FY ending March 31, 1980 compared to FY ending March 31, 1979.

In this case, therefore, the certifying officer has determined that all workers of the Maxwell House Division of General Foods Corporation, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7453; Inland Mining Co., Virginia, Minn.

The investigation was initiated on March 31, 1980 in response to a petition which was filed by the United

Steelworkers of America on behalf of workers at the Virginia, Minnesota facility of the Inland Steel Mining Company. Workers at the Virginia, Minnesota facility produce taconite pellets.

The investigation revealed that criterion (3) has not been met.

Average employment increased at the Virginia, Minnesota facility of the Inland Steel Mining Company in 1979 compared to 1978, and in the first quarter of 1980 compared to the same quarter in 1979. However, the company has announced that it anticipates laying off some workers in August 1980.

The Virginia, Minnesota facility sells all of its taconite pellet production to the Inland Steel Company's Indiana Harbor Works. The Indiana Harbor Works increased purchases of taconite pellets from the Virginia, Minnesota facility in 1979 compared to 1978. Workers at the Indiana Harbor Works were denied eligibility to apply for adjustment assistance benefits on April 14, 1980 (TA-W-6851).

The Indiana Harbor Works increased its purchases of imported taconite pellets from two affiliated mines in Canada in 1979 compared to 1978. However, the mine that supplied the majority of the imports was closed at the end of 1979. Both the imported pellets and the pellets produced by the Minnesota facility are transported via the St. Lawrence Seaway, which is closed during the winter months, thus there have been no imports in the first quarter of 1980.

In this case, therefore, the certifying officer has determined that all workers of Virginia, Minnesota facility of the Inland Steel Mining Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7340; Maben Energy Corp., Wyoming County, W. Va.

The investigation was initiated on March 10, 1980 in response to a petition which was filed by the United Mine Workers of America on behalf of workers at Maben Energy Corporation, Mines #1, #3, #4, and #5, Wyoming County, West Virginia. The workers produce metallurgical coal.

The investigation revealed that criterion (3) has not been met.

The petition was filed on behalf of workers engaged in employment related to the mining of metallurgical coal. In accordance with Section 222 of the Trade Act of 1974 and 29 CFR 90.2 a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of

processing. Imports of coke and imports of metallurgical coal should be considered in determining import injury to workers mining metallurgical coal.

U.S. imports of metallurgical coal decreased both absolutely and relative to domestic production in 1978 compared to 1977, and in 1979 compared to 1978. Since 1975, U.S. imports of metallurgical coal have been less than one percent of domestic production. U.S. imports of coke decreased both absolutely and relative to domestic production in 1979 compared to 1978 and decreased in the first two months of 1980 compared to the first two months of 1979.

In this case, therefore, the certifying officer has determined that all workers of Maben Energy Corporation, Mines #1, #3, #4, and #5, Wyoming County, West Virginia are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-8347; Metal Forge Co., Deshler, Ohio

The investigation was initiated on March 17, 1980 in response to a petition which was filed by the United Auto Workers on behalf of workers at the Deshler, Ohio plant of the Metal Forge Company. Workers at the Deshler plant produce shafts, struts and U-bolts.

The investigation revealed that criterion (3) has not been met.

The Deshler, Ohio plant of the Metal Forge Company produces shafts, struts and U-bolts for the automotive industry. The petition alleges that increased imports of automobiles contributed importantly to the decline in sales or production and separation of workers at the plant. Imported automobiles cannot be considered like or directly competitive with shafts, struts and U-bolts. Imports of shafts, struts and U-bolts must be considered in determining import injury to the workers at the plant.

Shafts and struts are included in the import and production category Carbon Steel Wire Rods. U.S. imports of carbon steel wire rods declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

U-bolts are included in the import and production category Universal Joints. U.S. imports of universal joints are insignificant. The ratio of imports to domestic production of universal joints has not exceeded 2.0 percent during the period 1977 through 1979.

In this case, therefore, the certifying officer has determined that all workers of the Deshler, Ohio plant of the Metal Forge Company are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7114; Penn Children's Dress Corp., Mayfield, Pa.

The investigation was initiated on February 13, 1980 in response to a petition which was filed on behalf of workers at Penn Children's Dress Corporation, Mayfield, Pennsylvania. The workers at the Penn Children's Dress Corporation produced primarily children dresses.

The investigation revealed that criterion (3) has not been met.

U.S. imports of children's dresses decreased in 1979 compared to 1978.

A survey of Penn Children's Dress Corporation revealed that Penn Children's Dress Corporation was a garment contractor producing primarily children's dresses for a manufacturer. The manufacturer of Penn Children's indicated an increased reliance on other domestic contractors and in-house production and a decline in its sales in 1979 compared with 1978. A survey of the customers of the manufacturer revealed that most customers either did not import children's dresses or decreased their reliance on imported dresses.

In this case, therefore, the certifying officer has determined that all workers of the Penn Children's Dress Corporation, Mayfield, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7436; Richton Jewelry Co., Inc., Providence, R.I.

The investigation was initiated on March 24, 1980 in response to a petition which was filed by the Amalgamated Jewelry Workers Union on behalf of workers at Richton Jewelry Company, Incorporated, Providence, Rhode Island. The workers produced costume jewelry.

The investigation revealed that criterion (3) has not been met.

U.S. imports of costume jewelry declined relative to domestic production in 1979 compared to 1979 compared to 1978 and in 1978 compared to 1977.

A Departmental survey was conducted with the major retail customers of Richton Jewelry Company, Incorporated in 1978 and 1979. Most customers responding to the survey either did not import costume jewelry or increased their purchases from domestic sources other than Richton from 1978 to 1979. Those customers who decreased their purchases from Richton and increased their purchases of imported costume jewelry represented a small portion of Richton's sales decline from 1978 to 1979. The respondents, in aggregate, decreased their reliance on imported costume jewelry relative to

purchases of domestic costume jewelry between 1978 and 1979.

In this case, therefore, the certifying officer has determined that all workers of Richton Jewelry Company, Incorporated, Providence, Rhode Island are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7423; Sherman Oaks Industries, Inc., Caldwell, N.J.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Sherman Oaks Industries, Incorporated, Caldwell, New Jersey. Workers at the firm produce knit and woven fabrics.

The investigation revealed that criterion (3) has not been met.

U.S. imports of finished fabric decreased absolutely in 1979 compared with 1978. The ratio of imports to domestic production has not exceeded 2.1 percent since 1975.

Sherman Oaks Industries, Incorporated sells fabric primarily to foreign brokers and foreign garment manufacturers for the production of garments in foreign countries. The subject firm does not complete in the domestic market, nor does the firm bid for contracts to produce goods for domestic use.

In this case, therefore, the certifying officer has determined that all workers of Sherman Oaks Industries, Incorporated, Caldwell, New Jersey, are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

TA-W-7432; Thornton Polishing and Buffing Co., Inc., Clawson, Mich.

The investigation was initiated on March 24, 1980 in response to a petition which was filed on behalf of workers at Thornton Polishing and Buffing Company, Inc., Clawson, Michigan. The workers at Thornton Polishing and Buffing Company, Inc. are engaged in providing metal finishing services, preparing metal for bright and decorative finish.

The investigation revealed that workers of Thornton Polishing and Buffing Company, Inc. do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Thornton Polishing and Buffing Company, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the

statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Thornton Polishing and Buffing Company, Inc. and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in polishing and buffing operations at Thornton Polishing and Buffing Company, Inc. are employed by that firm. All personnel actions and payroll transactions are controlled by Thornton Polishing and Buffing Company, Inc. All employee benefits are provided and maintained by Thornton Polishing and Buffing Company, Inc. Workers are not, at any time, under employment or supervision by customers of Thornton Polishing and Buffing Company, Inc. Thus, Thornton Polishing and Buffing Company, Inc. and not any of its customers, must be considered to be the "workers' firm".

In this case, therefore, the certifying officer has determined that all workers of Thornton Polishing and Buffing Company, Inc., Clawson, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I hereby certify that determinations were issued with respect to all of the aforementioned cases during the week of May 19-23rd, 1980.

Signed at Washington, D.C., this 2d day of June 1980.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-17232 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-26-M

Steel Tripartite Advisory Committee Working Group on Modernization and Capital Formation; Meeting

The Steel Tripartite Advisory Committee was established under the Federal Advisory Committee Act, 5 U.S.C. Appr. (1976), to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor and the public.

Notice is hereby given that the Steel Tripartite Advisory Committee's Working Group on Modernization and Capital Formation will meet at 10:00 A.M. on June 18, 1980, in room 4426, U.S. Department of Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C.

Discussion will center around a staff review of recent industry estimates of the capital available for the modernization of the domestic steel industry. Due to the tight time schedule

of the working group's activity in relation to the meeting of the full Steel Tripartite Advisory Committee in the afternoon of June 18, insufficient time was available to give 15 days advance notice of the working group meeting. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Joseph S. Papovich, Executive Secretary, Steel Tripartite Advisory Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20220, telephone (202) 523-6227.

Official records of the meeting will be available for public inspection at Room S5315, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 3d day of June 1980.

Herbert N. Blackman,

Associate Deputy Under Secretary for International Affairs.

[FR Doc. 80-17228 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The Twenty-Sixth meeting of the National Commission on Unemployment Compensation is scheduled to be held in the House Office Annex Building #1, Corner New Jersey and C Streets, S.E., Room 116, Capitol Hill, Washington, D.C. The meeting will begin at 9:00 A.M. on Monday, June 16, and conclude at 4:00 P.M., on Tuesday, June 17, 1980. The agenda is as follows:

Monday, June 16

1. 9:00 A.M.-12:30 P.M.

A. Legislative Developments—Mr. Rosbrow

B. Report on Meeting with State UI Directors—Chairman, Messrs. Hill and Cooper

C. Continued Discussion of Older Workers Special Unemployment Benefits

D. Phase-In of Maximum Weekly Benefit Standard

Lunch (12:30 P.M.-2:00 P.M.)

2. 2:00 P.M.-6:00 P.M.

B. New Entrants to the Labor Market and Displaced Homemakers

C. Shared Work Compensation—Work Sharing

D. Crew Leader in Agriculture

E. Employer-Employee Relationship and Self-Employment

F. Railroad Unemployment Program

Break (6:00 P.M.)

Tuesday, June 17

3. 8:30 A.M.-12:30 P.M.

A. Completion of Revisions on Claims and Appeals

B. California Evaluation of State Programs

C. Responsibilities of Board of Trustees

D. Investment of State Reserve Funds

E. Availability of Program Data (#9, #10, #11 in Commission law)

F. Technical Assistance to States

Lunch (12:30 P.M.-2:00 P.M.)

4. 2:00 P.M.-4:00 P.M.

A. Adequacy of State Replacement Rates in Current Recession

B. Topics for Consideration at June 28-29-30 Meeting

C. Consideration of Draft Portions of Report

Adjourn (4:00 P.M.)

Since the Commission has concluded its hearings, no testimony will be received at this meeting. However, written statements will continue to be accepted, and will be distributed promptly, upon receipt, to all members. Twenty copies of any statement should be directed to the executive director of the Commission at the address indicated below.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director,
National Commission on Unemployment
Compensation, 1815 N. Lynn Street, Room
440, Rosslyn, Virginia 22209, (703) 235-2782.

Signed at Washington, D.C., this 3d day of June 1980.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 80-17285 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-416A and 417A]

Mississippi Power & Light Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note.—This document was originally published in the issue of May 30, 1980. It is reprinted at the request of the Nuclear Regulatory Commission.

Mississippi Power and Light, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information concerning proposed additional ownership of the Grand Gulf

Nuclear Station, Units 1 and 2. The current holders of the construction permits are Mississippi Power and Light Company and Middle South Energy, Inc. The application proposes to add South Mississippi Electric Power Association as co-owner; it contains information requested by the Attorney General for the purpose of performing an antitrust review of the application as set forth in 10 CFR 50, Appendix L.

Construction of the Grand Gulf Nuclear Station, Units 1 and 2, two boiling water reactors, was authorized on September 4, 1974. This construction is currently underway at the applicants' site in Claiborne County, Mississippi.

The original application was dated November 17, 1972; the related Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters was initially published in the *Federal Register* on December 6, 1972 (37 FR 25964). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Applicants' Environmental Report; the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the *Federal Register* on July 28, 1978 (43 FR 32903).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Claiborne County Chancery Clerk's Office, Claiborne County Courthouse, Port Gibson, Mississippi.

Any person who wishes to have his views on the antitrust matters with respect to South Mississippi Electric Power Association presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before July 29, 1980.

Dated at Bethesda, Maryland, this 16th day of May, 1980.

For the Nuclear Regulatory Commission.

A. Schwencer,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-16266 Filed 6-5-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-10]

**Commonwealth Edison Co.;
Availability of Draft Environmental
Statement**

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed primary cooling system chemical decontamination at Commonwealth Edison Company's Dresden Nuclear Power Station, Unit No. 1 located in Grundy County, Illinois is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the Local Public Document Room at Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. The Draft Statement is also being made available at the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 S. Second Street, Room 315, Springfield, Illinois 62706. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Licensing.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by July 21, 1980. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Local Public Document Room. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 30th day of May 1980.

For the Nuclear Regulatory Commission.
Dennis M. Crutchfield,
*Chief, Operating Reactors Branch No. 5,
Division of Licensing.*
[FR Doc. 80-17185 Filed 6-5-80; 8:45 am]
BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No.
1816; Amdt. No. 3]

**Louisiana; Declaration of Disaster
Loan Area**

The above numbered Declaration and Amendments thereto (See 45 FR 26544, 45 FR 28031, and 45 FR 35961) are amended in accordance with the President's major disaster declaration of April 9, 1980, to include St. Martin, St. Mary, Terrebonne, Iberville and Washington Parishes. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named parishes and adjacent parishes within the State. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on June 13, 1980, and for economic injury until the close of business on January 12, 1981.

(Catalog of Federal Domestic Assistance
Program Nos. 59002 and 59008)

Dated: May 2, 1980.

A. Vernon Weaver,
Administrator.

[FR Doc. 80-17186 Filed 6-5-80; 8:45 am]
BILLING CODE 8025-01-M

[License No. 04/04-5139]

**Biscayne Capital Corp.; Surrender of
License**

Notice is hereby given that pursuant to § 107.105 of the Small Business Administration (SBA) rules and regulations governing Small Business Investment Companies (SBICs) (13 CFR (1980)), Biscayne Capital Corporation, 100 North Biscayne Boulevard, Miami, Florida 33132, incorporated under the laws of the State of Florida has surrendered its license to operate as a Section 301(d) SBIC; License No. 04/04-5139 was issued on March 2, 1979.

Biscayne Capital Corporation has complied with all the conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Biscayne Capital Corporation is hereby accepted and it is no longer licensed to operate as a Section 301(d) Licensee.

(Catalog of Federal Domestic Assistance
Program No. 59.011, Small Business
Investment Companies)

Dated: May 30, 1980.

Peter F. McNeish,
*Deputy Associate Administrator for
Investment.*

[FR Doc. 80-17191 Filed 6-5-80; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/303]

**Shipping Coordinating Committee,
Subcommittee on Safety of Life at Sea;
Meeting**

The working group on subdivision, stability and load lines of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 10:00 a.m. on June 17, 1980 in room 1303 of Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

The purpose of the meeting will be to review the agenda items and delegation papers received by that time in preparation for the 25th Session of the Subcommittee. In particular the following topics will be discussed:

Final Draft—Harmonized Gas and Chemical Codes (Chapter 2)

Subdivision—Information to the MASTER

Load Lines Improvement and Future Development

For further information contact Mr. William A. Cleary, Jr., U.S. Coast Guard (G-MMT-5/TP12), 2100 Second Street, S.W., Washington, D.C. 20593, telephone (202) 426-2188.

Dated: May 28, 1980.

John Todd Stewart,
Chairman, Shipping Coordinating Committee,

[FR Doc. 80-17183 Filed 6-5-80; 8:45 am]
BILLING CODE 4710-07-M

[CM-8/304]

**Shipping Coordinating Committee,
Subcommittee on Safety of Life at Sea;
Meeting**

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 1:30 p.m. on June 19, 1980 in room 8440 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-second Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be

held in London in September 1980. In particular, the working group will discuss the following topics:

Survival craft radio equipment
Operational requirements for future EPIRBs

Operational standards for shipboard radio equipment

Maritime distress system

For further information contact Lt R. F. Carlson, U.S. Coast Guard (G-OTM-3/TP32), Washington, D.C. 20593; telephone (202) 426-1345.

Dated: May 28, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-17184 Filed 6-5-80; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on June 9 and 10, 1980, in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, N.W., Washington, D.C. The meeting will begin at 10:00 a.m. on June 9 and 9:00 a.m. on June 10. The agenda will include the following topics:

Monday, June 9

Administration of Preparer Penalties
Tax Forms Simplification Study
Taxpayer Ombudsman Program—and Update

Tuesday, June 10

Commodities Transactions
2032A, Valuation of Certain Farms, etc., Real Property
Functioning of the Advisory Group.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. After the Committee members finish discussing the items on the agenda, there may be time for statements from nonmembers.

If you want to make a statement at the meeting, or if you would like the Committee to consider a written statement, please call or write to D. James Lantonio, Assistant to the Deputy Commissioner, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the *Federal Register* for Wednesday, November 8, 1978 (43 FR 52120).

FOR FURTHER INFORMATION CONTACT:

D. James Lantonio, Assistant to the

Deputy Commissioner, 202-566-4143 (not toll free).

Jerome Kurtz,
Commissioner.

[FR Doc. 80-17254 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 96 (Rev. 4)]

Delegation of Authority

AGENCY: Internal Revenue Service.
Treasury.

ACTION: Delegation of Authority.

SUMMARY: The delegation order authorizes certain National Office and Key District personnel to limit the retroactive effect of the revocation of any determination letter issued with respect to employee plans. This authority will be exercised only with respect to employee plans with favorable determination letters issued prior to the Employee Retirement Income Security Act of 1974 (ERISA) which were not timely amended to conform to ERISA and certain plans with favorable post-ERISA determination letters including those which were not timely amended to comply with final regulations. The text of the delegation order appears below.

EFFECTIVE DATE: June 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Stephen C. Kisling, E:EP:T:3, 1111 Constitution Avenue, N.W., Room 6213, Washington, DC 20224, (202) 566-4712 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

Billy Hargett,

Director, Employee Plans Division.

Application of Rulings Without Retroactive Effect

Date of issue: June 4, 1980.

Effective date: June 4, 1980

1. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7805-1(b):

a. the Assistant Commissioner (Technical) and the Deputy Assistant Commissioner (Technical) are hereby authorized to prescribe the extent, if any, to which any ruling issued by or pursuant to authorization from the Assistant Commissioner relating to the internal revenue laws shall be applied without retroactive effect.

b. the Assistant Commissioner (Employee Plans and Exempt Organizations) and the Deputy Assistant

Commissioner (Employee Plans and Exempt Organizations) are hereby authorized to prescribe the extent, if any, to which any ruling issued by or pursuant to authorization from the Assistant Commissioner relating to the internal revenue laws shall be applied without retroactive effect.

2. a. Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7805-1(b), there is hereby delegated to the Director, Employee Plans Division and to the Director, Actuarial Division of the National Office, and to the Director of each EP/EO Key District, the authority to limit the retroactive effect of the revocation of any determination letter issued with respect to employee plans if the following conditions are met:

(1) The plan sponsor has received a favorable determination letter under the law in effect prior to the date that the Employee Retirement Income Security Act of 1974 (ERISA) applied to the plan, but did not receive a favorable post-ERISA determination letter.

(2) The plan sponsor executed the necessary plan amendments to conform to ERISA retroactively to the first plan year that was subject to ERISA and such amendments are executed no later than 91 days after the issuance of a final determination letter or notice of amendments needed to effect compliance (which notice shall be issued at least 91 days prior to the final examination report).

(3) Employees' and beneficiaries' rights and/or benefits under the plan are restored to levels they would have had to attain if the plan had never failed to qualify under ERISA.

(4) The requirements of section 2b relating to form are satisfied on June 4, 1980, and the requirements of section 2b relating to operation are met beginning with the ERISA effective date for the minimum participation standards determined with regard to each plan.

b. The requirements of this section are:

(1) The plan satisfies the age and service requirements for participation described in section 410(a) of the Code or fails to satisfy such requirements solely because the plan incorrectly credits service for eligibility purposes;

(2) The plan satisfies the requirements of section 411(a) or fails to satisfy such requirements solely because the plan incorrectly credits service for vesting purposes;

(3) In the case of a plan subject to the joint and survivor requirements of section 401(a)(11) such plan provides a joint and survivor annuity;

(4) The plan has not failed to satisfy the requirements of section 414(1);

(5) The plan has not, in operation, violated the limitations of section 415(c) by making excess allocations to individuals who are officers, shareholders or highly compensated; and

(6) The plan has not, in operation, been discriminatory in coverage or in contributions or benefits under sections 410(b) and 401(a)(4).

c. In the case of a plan that fails to satisfy section 2a solely as a result of not satisfying one or more of the requirements of section 2b, partial relief will be granted through section 7805(b). The employer's contributions will not be deductible as contributions to a qualified plan. However, section 7805(b) relief will be applied to the trust and all employees except to the extent described in the next two sentences. In the case of a plan that does not satisfy section 2b(5), the 7805(b) relief described in the previous sentence will not apply to any officer, shareholder, or highly compensated individual who received annual additions that did not satisfy such section. In the case of a plan which does not satisfy section 2b(6), the 7805(b) relief will not apply to any officer, shareholder or highly compensated individual. Thus, any such officer, shareholder or highly compensated individual will not receive the tax treatment applicable with respect to qualified plans. In the case of a plan which fails to satisfy applicable requirements for any other reason relief can only be granted pursuant to section 1b.

d. The section 7805(b) relief detailed in sections 2a, 2c and 3 shall be effective for the period beginning with the ERISA effective date for the minimum participation standards determined with regard to each plan and ending on the date of final compliance which shall be no later than the date defined in section 2a(2) of this order.

e. In determining whether the requirements of this section are satisfied, proposed amendments received by the Service by June 4, 1980, will be taken into account.

3. a. In addition to the authority delegated in section 2 above, there is delegated to the Director of each EP/EO Key District, the Director, Employee Plans Division and the Director, Actuarial Division, the authority to limit the retroactive effect of the revocation, if any, of a favorable post-ERISA determination letter issued for a plan, except issues with respect to which an Alert Guidelines worksheet was completed. If a determination letter was issued erroneously with respect to issues covered by a completed Alert Guidelines worksheet, retroactive relief

may only be granted pursuant to section 1b.

b. If a plan described in section 3a is amended in accordance with section 2a(2), restoration will be required and relief will be granted to the extent described below. If the defect did not exist at the time of the prior letter, the sponsor must restore any benefits and relief will be granted in accordance with the principles in section 2c for the period in which the defect existed. If the defect did exist at the time of the prior letter, the related benefits need only be restored for the period during which the plan was, without regard to the defect, not in compliance with Code section 401(a), and full section 7805(b) relief will be granted.

4. The delegation of authority granted pursuant to sections 2 and 3 above does not permit relief to be granted in any case if after September 30, 1982, amendments required for complete compliance have not been executed or a request for a determination letter with proposed ERISA amendments has not been filed. Notwithstanding the above, the Director of each EP/EO Key District is not delegated any section 7805(b) authority in the case of a plan which the Director of each EP/EO Key District determines to have been discriminatory for years before the effective date of section 410 for such plan. Cases described in this section must be referred to the National Office pursuant to procedures governing requests for technical advice.

5. Notwithstanding any of the above, section 7805(b) authority is not delegated to the Director, Employee Plans Division, the Director, Actuarial Division and the Director of each EP/EO Key District in the case of a plan which has been determined to have violated the exclusive benefit rule of section 401(a).

6. The section 7805(b) authority described in sections 2a, 2c or 3 will be exercised except in rare and unusual circumstances. Where rare and unusual circumstances exist, denial of section 7805(b) relief will be applied only if approved by the National Office.

7. The authority delegated in section 1 may not be redelegated.

8. The authority to grant 7805(b) relief in certain employee plan matters herein delegated to the Director, Employee Plans Division and to the Director of each EP/EO Key District may not be redelegated below the level of the Chief, Employee Plans Technical Branch and the Chief, EP/EO Division, respectively. The authority to grant 7805(b) relief delegated to the Director, Actuarial Division may not be redelegated.

9. This delegation order expires with respect to the Director of each EP/EO Key District on December 31, 1982.

10. This delegation order supersedes Delegation Order No. 96 (Rev. 3) issued July 12, 1976.

Jerome Kurtz,
Commissioner.

[FR Doc. 80-17255 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 156 (Rev. 1), Amend. 1]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: This Amendment provides limited delegations of authority regarding the disclosure of returns and return information under IRC 6103 (i)(1), (i)(2), (i)(3), and (i)(4) to Federal Officers or employees for administration of Federal criminal laws not related to tax administration. This Amendment reflects the decentralization to field officials of authority previously vested only in National Office officials.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

EFFECTIVE DATE: June 1, 1980.

FOR FURTHER INFORMATION CONTACT: R. L. Rizzo, TX:D, Room 1603, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone number 202-566-4263 (not a toll-free telephone number).

R. L. Rizzo,
Director, Disclosure Operations Division.

Authority to Disclose Returns and Return Information to Federal Officers or Employees for Administration of Nontax Federal Criminal Laws

Date of issue: June 1, 1980.

Effective date: June 1, 1980.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

1. The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Director, Disclosure Operations Division; Regional Commissioners; District and Service Center Directors; Assistant District and Service Center Directors; Director of International Operations; and Assistant Director of International Operations are authorized:

a. To disclose or in specific instances, authorize the disclosure of returns or taxpayer return information to officers and employees of a Federal agency pursuant to an *ex parte* order by a Federal district court judge when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(i)(1) and the Treasury Regulations thereunder. This authority may not be redelegated.

b. To disclose or, in specific instances, authorize the disclosure of return information (other than taxpayer return information) to officers and employees of a Federal agency upon written request by the head of such agency, or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, when needed for use in the enforcement of a Federal criminal statute (not involving tax administration) subject to the conditions prescribed in IRC 6103(i)(2). This authority may not be redelegated.

2. The Deputy Commissioner; Assistant Commissioner (Taxpayer Service and Returns Processing); Deputy Assistant Commissioner (Taxpayer Service and Returns Processing); Director, Disclosure Operations Division; and Regional Commissioners are authorized:

a. To withhold any return or taxpayer return information pursuant to IRC 6103(i)(1) or (i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation. This authority may not be redelegated.

b. To withhold return information (other than taxpayer return information), pursuant to IRC 6103(i)(2) or (i)(4), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation. This authority may not be redelegated.

c. To disclose or, in specific instances, authorize the disclosure in writing of return information (other than taxpayers return information), which may constitute evidence of a violation of Federal criminal laws, to the extent necessary to apprise the head of the appropriate Federal agency enforcing such laws, subject to the conditions prescribed in IRC 6103(i)(3). The authority to withhold return information (other than taxpayers return information), pursuant to IRC 6103(i)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation is also

delegated. The authority delegated in this paragraph may be redelegated to Assistant Regional Commissioners (Taxpayer Service and Returns Processing) and Regional Disclosure Officers, but such redelegation shall not extend to the authority to withhold return information (other than taxpayer return information). This authority is in addition to the authority previously delegated in paragraph (1)(g) of Delegation Order No. 156 (Rev. 1).

3. This Amendment amends paragraphs (6)(b), (c), and (d) of Delegation Order No. 156 (Rev. 1). Delegation Order No. 156 (Rev. 1), issued July 30, 1979, is printed in the *Federal Register* dated August 1, 1979, Vol. 44, No. 149, Page 45275.

Jerome Kurtz,
Commissioner.

[FR Doc. 80-17256 Filed 6-5-80; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 112 (Rev. 6)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority to issue modifications and revocations of collectively-bargained plans and plans violating the exclusive benefit rule is subject to concurrence by the Assistant Commissioner (E). The authority is granted to issue reports on results of examinations with respect to revocation, continued qualification and imposition of tax and penalties. The text of the delegation order appears below.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Terry Hallihan, 1111 Constitution Avenue, N.W., Room 2231, Washington, DC 20224, (202) 566-6382 (Not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

R. S. Wintode, Jr.,
Assistant Director, Employee Plans Division.

Authority to Issue Determination and Revocation Letters, to Grant Extensions of the Remedial Amendment Period and to Issue Examination Reports Relating to Employee Plans

Date of issue: June 2, 1980.

Effective date: June 2, 1980.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37,

authority with respect to issuance of determination and revocation letters, to granting extensions of the remedial amendment period and to issuance of examination reports pertaining to employee plans and related matters is delegated as follows:

1. The District Director of each Employee Plans and Exempt Organizations key district is authorized, subject to paragraph 3, to:

(a) issue determination and revocation letters involving the provisions of sections 401, 403(a), 405, 409A, 501(a), and 4975(e)(7) of the Internal Revenue Code of 1954 with respect to:

(1) qualification of stock bonus, pension, profit sharing, employee stock ownership, annuity, and bond purchase plans, and cash or deferred arrangements;

(2) exemption from federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 4975(c)(1) or section 503 with respect to plans described in 4975(g) (2) or (3);

(3) compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(4) amendments, (including those relating to section 414(1) of the Code), partial terminations or terminations of such plans and trusts.

(b) issue examination reports with respect to:

(1) continued qualification under sections 401, 403(a), 405, 409A, and 4975(e)(7) of plans and continued exemption under section 501(a) of the related trust;

(2) imposition of tax under sections 1, 511 through 514, 641 and Chapter 43; and

(3) imposition of penalties under Chapter 68 of the Internal Revenue Code of 1954.

(c) issue determination letters with respect to whether a plan constitutes an employee stock ownership plan that is not intended to qualify under section 401 of the Internal Revenue Code of 1954 for taxable years beginning before January 1, 1979.

(d) issue modification or revocation of determination letters described above in accordance with currently applicable appeal procedures. If the revocation involves collectively-bargained plans, or plans for which the Internal Revenue Service is proposing to issue a revocation letter because certain

fiduciary actions subject to Part 4, Subtitle B of Title I of the Employee Retirement Income Security Act (ERISA) have violated the exclusive benefit rule of section 401(a), the plan must have been submitted for technical advice and the Assistant Commissioner (E) must have concurred with the revocation.

(e) redelegate this authority as follows:

(1) with respect to issuance and modification of favorable determination letters or examination reports, other than a report issued with a proposed revocation letter, not below Internal Revenue Agent and Tax Law Specialist, GS-12, and then only if such individual is a person other than the initiator.

(2) with respect to issuance of proposed and final adverse determination letters or proposed revocation letters and related examination reports, not below Chief, EP/EO Division.

(3) with respect to issuance of final revocation letters, this authority may not be redelegated.

2. In each region, the Regional Director of Appeals, Chiefs and Associate Chiefs, Appeals Office, are authorized to:

(a) issue final determination or final revocation letters on appeals from proposed adverse determination and proposed revocation letters issued by key district offices under this delegation.

(b) issue letters as to the decision on appealed examination reports or statutory notices as provided in Delegation Order No. 77.

(c) This authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with concurrence of the Chief Counsel, is authorized to require preissuance review of final adverse determination and final revocation letters covered by section 7476(a) of the Internal Revenue Code of 1954.

4. The District Director of each Employee Plans and Exempt Organizations key district is authorized to:

(a) extend the remedial amendment period described in section 401(b) of the Internal Revenue Code of 1954 in accordance with currently applicable 401(b) procedures for individually designed plans and master and prototype plans not described in (b) below, but not in excess of eight months after the later of:

(1) the due date of the employer's income tax return without extension, for the year in which the remedial amendment period begins, or

(2) the end of the plan year within which the remedial amendment period begins;

(3) however, for a plan maintained by more than one employer, the remedial amendment period may not be extended in excess of two months after the last day of the tenth month after the end of the plan year.

(b) extend the remedial amendment period for a master or prototype plan whose sponsoring organization, after September 2, 1974, and on or before December 31, 1976, filed a request for an opinion letter with respect to the plan's qualification but not in excess of eight months after the later of:

(1) June 30, 1977, or
(2) the last day of the month that is six months after the month in which (i) the opinion or notification letter is issued, (ii) the request for the letter is withdrawn, or (iii) the request is otherwise disposed of by the Service.

(c) redelegate this authority but not below Chief, EP/EO Division.

Delegation Order No. 112 (Rev. 5) issued October 1, 1978 is hereby superseded.

Jerome Kurtz,
Commissioner.

[FR Doc. 80-17257 Filed 6-5-80; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

[Amendment to Department Circular, Public Debt Series—No. 17-80]

Treasury Notes of May 31, 1982; Series S-1982

June 3, 1980.

Department of the Treasury Circular, Public Debt Series—No. 17-80, dated May 15, 1980, descriptive of Treasury Notes of Series S-1982, is hereby amended, effective May 30, 1980. The notes will be auctioned Monday, June 2, 1980 and will accrue interest from Wednesday, June 4, 1980.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 17-80, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2.1. The securities will be dated June 4, 1980, and will bear interest from that date, payable on a semiannual basis on November 30, 1980, and each subsequent 6 months on May 31 and November 30, until the principal becomes payable. They will mature May 31, 1982, and will not be subject to call for redemption prior to maturity.

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 12:30 p.m., Eastern Daylight Saving time, Monday, June 2, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Sunday, June 1, 1980.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5, must be made or completed on or before Wednesday, June 4, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, June 2, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Section 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753, 754b), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17334 Filed 6-4-80; 12:09 pm]

BILLING CODE 4810-40-M

[Supplement to Department Circular, Public Debt Series—No. 17-80]

Treasury Notes; Series S-1982

June 3, 1980.

The Secretary announced on June 2, 1980, that the interest rate on the notes designated Series S-1982, described in Department Circular—Public Debt Series—No. 17-80, as amended, dated May 15, 1980, will be 9% percent. Interest on the notes will be payable at the rate of 9% percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17333 Filed 6-4-80; 12:06 pm]

BILLING CODE 4810-40-M

[Amendment to Department Circular, Public Debt Series—No. 18-80]

Treasury Notes of August 15, 1985, Series E-1985

June 3, 1980.

Department of the Treasury Circular, Public Debt Series—No. 18-80, dated May 22, 1980, descriptive of Treasury Notes of Series E-1985, is hereby amended, effective May 30, 1980. The notes will be auctioned Tuesday, June 3, 1980, and will accrue interest from Thursday, June 5, 1980.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 18-80, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2.1. The securities will be dated June 5, 1980, and will bear interest from that date, payable on a semiannual basis on February 15, 1981, and each subsequent 6 months on August 15 and February 15, until the principal becomes payable. They will mature August 15, 1985, and

will not be subject to call for redemption prior to maturity.

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 Daylight Saving time, Tuesday, June 3, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 2, 1980.

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 Thursday, June 5, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, June 3, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Sections 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753, 754b), and 5 U.S.C. 301. Notice and public procedures thereof

are unnecessary as the fiscal policy of the United States is involved.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-17335 Filed 6-4-80; 12:10 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 111

Friday, June 6, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Nuclear Regulatory Commission	3
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1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, FR p. 37577, June 3, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 6, 1980.

PLACE: FDIC Building, 550 17th Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Marshall (202-377-6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting.

Regulation on Dividends to Member Institutions.

Regulation on Amendment to Policy on Advances.

Regulation on Induced Savings Withdrawals.

Announcement is being made at the earliest practicable time.

No. 356, June 3, 1980.

[S-1103-80 Filed 6-4-80; 11:51 am]

BILLING CODE 6720-01-M

2

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, June 11, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board

requests that an item be moved to the discussion agenda.

1. Proposed restatement of the System policy on Equal Employment Opportunity and the use of affirmative action programs.

2. Proposed uniform policy regarding internal control for foreign exchange in commercial banks.

3. Proposed uniform description for classification of the competitive factor reports required by the Bank Merger Act.

4. Proposal to amend Regulation T (Credit by Brokers and Dealers) to lift the suspension of customer rule as it applies to specialists. (Docket No. R-0004).

Discussion Agenda:

1. Revision of a proposed amendment to Regulation T (Credit by Brokers and Dealers) to permit options specialists to both purchase and sell short the stock underlying the options in which they specialize, with a 25 percent margin requirement. (Proposed earlier for public comment; docket No. R-0054).

2. Determination of whether to publish notice in the Federal Register of the application of First Chicago Corporation, Chicago, Illinois, to continue to engage in certain real estate advisory activities.

3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: June 3, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1102-80 Filed 6-4-80; 11:12 am]

BILLING CODE 8210-01-M

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, June 10, 1980.

PLACE: Commissioners Conference Room, 1717 H Street NW Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

1. Continuation of Discussion of TMI Venting (approximately 2 hours, if needed) (public meeting).

2 p.m.

1. Discussion of Houston Lighting & Power (Allens Creek) (ALAB-590) (approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

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.

Roger M. Tweed,

Office of the Secretary.

June 3, 1980.

[S-1104-80 Filed 6-4-80; 2:32 pm]

BILLING CODE 7590-01-M

4

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of June 2, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Thursday, June 5, 1980, immediately following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Friedman determined that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Thursday, June 5, 1980, immediately following the 10:00 a.m. open meeting, will be:

Settlement of injunctive action.
Formal order of investigation.
Institution of injunction actions.
Consideration of *amicus* participation.

At times changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted for postponed, please contact: Anne Sullivan at (202) 272-2468.

June 4, 1980.

[S-1105-80 Filed 6-4-80; 3:36 pm]

BILLING CODE 8010-01-M

United States Federal Reserve

Friday
June 6, 1980

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and
Federally Assisted Construction, General
Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of

publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division; Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination
Decisions

None.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Colorado:	
CO80-5101	Feb. 1, 1980.
District of Columbia:	
DC80-3040	May 16, 1980.
Missouri:	
MO80-4023	Apr. 11, 1980.
MO80-4030	May 16, 1980.
MO79-4099	Dec. 14, 1979.
Montana:	
MT80-5111	Mar. 28, 1980.
MT80-5112	Apr. 18, 1980.
Oregon:	
OR80-5109	Mar. 14, 1980.
Texas:	
TX80-4024	Apr. 4, 1980.

Supersedeas Decision to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL79-1114 (AL80-1068)	July 27, 1979.
AL79-1133 (AL80-1069)	Oct. 19, 1979.
AL79-1065 (AL80-1070)	Apr. 13, 1979.
Minnesota:	
MN79-2024 (MN80-2034)	May 4, 1979.
South Dakota:	
SD79-5113 (SD80-5118)	Mar. 16, 1979.
Texas:	
TX80-4005 (TX80-4031)	Jan. 4, 1980.
TX79-4086 (TX80-4032)	Oct. 5, 1979.
TX79-4046 (TX80-4034)	Aug. 17, 1979.

**Cancellation of General Wage
Determination Decisions**

The general wage decisions listed below are cancelled. Agencies with construction projects pending to which one of the cancelled decisions would have been applicable should utilize the project determination procedure by submitting Form SF-308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7 (b) (2), the incorporation of one of the cancelled decisions in contract specifications, the opening of bids in within ten (10) days of this notice, need not be affected.

TX-79-4014—Dimmit, Jim Hogg, LaSalle,
Maverick, Webb, Zapata & Zavala
Counties, Texas—Building & Residential
Const.

TX-79-4007—Tom Green County, Texas—
Building Construction.

Signed at Washington, D.C. this 30th day of
May, 1980.

Dorothy P. Come,

*Assistant Administrator, Wage and Hour
Division.*

BILLING CODE 4510-27-M

DECISION NO. C080-5101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Alamosa, Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo and Rio Grande Counties:					
Zone 1:					
Electricians	\$12.49	.72	38+1.00		1½
Cable Splicers	13.76	.72	38+1.00		1½
Zone 2:					
Electricians	13.24	.72	38+1.00		1½
Cable Splicers	14.58	.72	38+1.00		1½
Zone 3:					
Electricians	13.74	.72	38+1.00		1½
Cable Splicers	15.13	.72	38+1.00		1½
Zone 4:					
Electricians	14.37	.72	38+1.00		1½
Cable Splicers	15.83	.72	38+1.00		1½
Zone 5:					
Electricians	14.99	.72	38+1.00		1½
Cable Splicers	16.51	.72	38+1.00		1½
Electricians on electrical contracts less than \$20,000 in Zones 3 and 4	10.25	.72	38+1.00		.015
Laborers:					
Group 1:					
Zone 1	8.65	.59	.70	.25	.05
Zone 2	9.15	.59	.70	.25	.05
Group 2:					
Zone 1	8.75	.59	.70	.25	.05
Zone 2	9.25	.59	.70	.25	.05
Group 3:					
Zone 1	9.05	.59	.70	.25	.05
Zone 2	9.55	.59	.70	.25	.05
Group 4:					
Zone 1	9.20	.59	.70	.25	.05
Zone 2	9.70	.59	.70	.25	.05
Group 5:					
Zone 1	9.40	.59	.70	.25	.05
Zone 2	9.90	.59	.70	.25	.05

DECISION NO. C080-5101 - Mod. #1

(45 FR 7443-February 1, 1980)

Statewide, Colorado

Change:

Carpenters:

Carpenters:	
Zone 1	
Zone 2	
Underground Carpenters	
Zone 1	
Zone 2	
Working on creosoted coated lumber or other toxic materials, Washmen continuously assigned to 1½ HP saw at job site	
High work 35' above ground or above permanent floor or deck	
Cement Masons:	
Zone 1	
Zone 2	
Electricians:	
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld, and Yuma Counties:	
Electricians	
Cable Splicers	
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Ouray, Pitkin, Rio Blanco, Routt, San Juan and San Miguel Counties:	
Electricians	
Cable Splicers	

MODIFICATIONS P. 4

DECISION NO. C080-5101 (Cont'd)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
Laborers:							
(Tunnels):							
Group 1	\$ 8.65	ZONE 1					
Group 2	9.55	ZONE 2					
Group 3	9.65	\$ 9.15	.59	.70	.25	.05	
Group 4	9.73	10.05	.59	.70	.25	.05	
Group 5	9.80	10.15	.59	.70	.25	.05	
Group 6	10.70	10.23	.59	.70	.25	.05	
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)		10.30	.59	.70	.25	.05	
Group 1	9.65	11.20	.59	.70	.25	.05	
Group 2	9.80	10.15	.59	.70	.25	.05	
Group 3	9.90	10.30	.59	.70	.25	.05	
Group 4	10.18	10.40	.59	.70	.25	.05	
Group 5	10.23	10.68	.59	.70	.25	.05	
Group 6	10.83	10.73	.59	.70	.25	.05	
		11.33	.59	.70	.25	.05	

DECISION NO. DC80-3040 - MOD. #2 (45 FR 32528 - May 16, 1980) District of Columbia, Maryland-Montgomery & Prince Georges; D.C. Training School; Virginia-Independent City of Alexandria, Arlington & Fairfax Counties	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Change: (District of Columbia Only) <u>Paving and Incidental</u> <u>Grading</u> Asphalt Shoveler Asphalt Raker Asphalt Tamper Bricklayers Carpenters Cement Masons Concrete Saw Operators Concrete Shoveler Form Setter Laborers: Laborers Jackhammer Hand Burner Operator Power Equipment Operators: Concrete Spreader Operator Concrete Spreader Machine, Roller (rough), Compressor Rubbertired Loader (1- $\frac{1}{2}$ cu. yds., or less), Asphalt Plant Mixer Loader Operator Tracks (2- $\frac{1}{2}$ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1- $\frac{1}{2}$ cu. yds.) Asphalt Spreader, Hydraul- ic Backhoe ($\frac{1}{2}$ cu. yd., or less), Asphalt Roller Operator, Concrete Breaker (machine) Crane Operator, Concrete Paving Operator	8.00 8.21 8.11 13.45 12.06 8.48 8.21 8.11 8.48 7.95 8.16 8.11 8.21 8.43 8.48 8.64	.30 .30 .30 1.17 .80 .30 .30 .30 .30 .30 .30 .30 .30 .30 .30 .30 .30	.40 .40 .40 .85 .65 .40 .40 .40 .40 .40 .40 .40 .40 .40 .40 .40 .40		.15 .05	

MODIFICATIONS P. 3

MODIFICATIONS P. 6

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
DECISION #M080-4023 - Mod. #3 (45 FR 24997 - April 11, 1980) Statewide, Missouri Change: Carpenters & Piledrivermen Zone 9	\$12.80	.60	.50	.07
DECISION #M080-4030 - Mod. #1 (45 FR 32537 - May 16, 1980) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson and Lafayette Counties, Missouri; Johnson and Wyandotte Counties, Kansas Change: Carpenters: Zone 1 Zone 2 Carpenters Millwright & Piledrivermen Zone 3 Carpenters Millwright & Piledrivermen	\$12.80 12.05 12.80 12.425 12.80	.60 .60 .60 .60 .60	.50 .50 .50 .50 .50	.07 .07 .07 .07 .07

MODIFICATIONS P. 5

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
DECISION NO. DC80-3040 - CONT'D Shovel Operator Gradall Operator (1-½ cu. yds. or less), Motor Grader, Operator Tracks over 2-½ cu. yds. G-1000 Gradall Operator (over 1½ cu. yds.) Power Broom, Oiler Sand Setter Truck Drivers: Truck Drivers (standard) Tandem Tractor trailer (capable of moving heavy equipment	8.75 9.44 9.71 8.11 8.48 7.95 8.07 8.48	.30 .30 .30 .30 .30 .30 .30 .30	.40 .40 .40 .40 .40 .40 .40 .40	

MODIFICATIONS P. 8

DECISION NO. MT80-5111 - Mod. #4

(45 FR 20651-March 28,

Statewide, Montana

Change:

Carpenters:

Statewide excluding

Beaverhead and Silver

Bow Counties:

Carpenters

Millwrights

Piledrivermen

Electricians:

Blaine, Chouteau,

Daniels, Fergus,

Glacier, Hill, Judith-

Basin, Liberty, McCone,

Petroleum, Pondera,

Phillips, Richland,

Roosevelt, Sheridan,

Teton, Toole, Valley

and Wheatland Counties;

Contracts under

\$75,000:

Electricians

Cable Splicers

Contracts over

\$75,000:

Electricians

Cable Splicers

Cascade County:

Electricians

Cable Splicers

Broadwater, Lewis and

Clark and Meagher Cos.

Electricians

Beaverhead, Deer Lodge,

Granite, Jefferson,

Madison, Powell and

Silver Bow Counties:

Electricians

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$12.30	.60	.50			.07
DECISION #MO79-4099 - Mod. 2 (44 FR 72819 - December 14, 1979) Cass, Clay, Jackson, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas Change: Carpenters, millwrights, and piledrivermen					

MODIFICATIONS P. 7

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$11.13	.85	\$1.00			.04
12.13	.85	1.00			.04
11.38	.85	1.00			.04
13.20	.70	38+.50			1/28
13.86	.70	38+.50			1/28
14.35	.70	38+.50			1/28
15.06	.70	38+.50			1/28
14.35	.70	38+.50			1/28
15.06	.70	38+.50			1/28
13.20	.70	38+.50			1/28
14.35	.70	38+.50			1/28

MODIFICATIONS P. 11

DECISION NO. MT80-5112 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Flahtead, Lincoln and Lake Counties (northern area including Town of Ravalli from a point where Highway #10A and Highway #93 intersect), Mineral County (northern area including the Town of Superior), Sanders County (excluding S.E. corner portion):					
Carpenters	\$11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen:	11.38	.85	1.00		.04
Gallatin, Madison, Park and Sweet Grass Counties:					
Carpenters	11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen:	11.38	.85	1.00		.04
Cement Masons: Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton and Toole Cos.	11.35				
Painters: Deer Lodge and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg:					
Painters	10.02				
Perfatapers	10.27				
Paint Mitt	10.52				
Add: Sprinkler Fitters: Apprenticeship Tr. ONLY					.08

MODIFICATIONS P. 12

DECISION #0880-5109 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(45 FR 16818-March 14, 1980) Lane, Linn, and Marion Counties, Oregon					
Change: Bricklayers: Lane and Linn Counties Marion County	\$13.85 14.26	.95 .95	\$1.00 1.00		.12 .15

DECISION #TX80-4024-Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(45 FR 23280-April 4, 1980) El Paso County, Texas					
Change: Bricklayers; Blocklayers; Rockmasons; Stonemasons; Marble Masons; Terrazzo Workers and Tile Setters; Terrazzo and Tile Finishers	\$ 8.65 8.00 8.00 5.30	.77	.20 .20 .20 .20		.05 .05 .05
Omit: All rates and classifications for painters					
Add: Elevator Constructors' Helpers	70%JR	.895	.69	4%+a+b	.035
Painters: Group 1 - Brush, Roller, Paperhangers and Tapers	7.90	.83			.02
Group 2 - Power driven tools, Steel after erection	8.31	.83			.02
Group 3 - Spray, Swing Stage, Sandblast, Stripping Machine	8.615	.83			.02
Group 4 - Water Tanks, Towers, Smoke Stacks	9.26	.83			.02
Group 5 - Ames Tools	8.12	.83			.02
Group 6 - Spray Texture	8.60	.83			.02

AL80-1068 (Cont'd)

SUPERSEDES DECISION

STATE: Alabama
 COUNTY: Etowah
 DATE: Date of Publication
 DECISION NO.: AL80-1068
 Supersedes Decision No. AL79-1114 dated July 27, 1979 in 44 FR 44407
 DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
ASBESTOS WORKERS	12.46	.55	.80			.05
BRICKLAYERS	12.45		.25			
CARPENTERS:						
Carpenters	11.05	.65	.50			
Millwrights	10.10	.60	.45			
CEMENT MASONS	9.90	.25	.25			.05
ELECTRICIANS	13.05	.55	38+.40			0.5%
GLAZIERS	7.73					
IRONWORKERS	11.60	.60	.82			.06
INSULATORS	8.35		.27			
LABORERS	6.61	.40				
LATHERS	8.50					
PAINTERS, brush	7.79					
PLUMBERS AND PIPEFITTERS	12.55	.65	.60	a		.07
ROOFERS	8.90		.20			.10
SHEET METAL WORKERS	11.88	.79	1.07			.09
SPRINKLER FITTERS	11.94	.75	1.05			.08
TRUCK DRIVERS:						
Up to but not inc. 1½ tons	7.52	.45				
1½ up to but not inc. 3 tons	7.74	.45				
3 up to but not inc. 5 tons	8.00	.45				
5 tons and over inc. special equipment	8.16	.45				
Heavy-Duty-off the road trucks	8.27	.45				
Welders - Rate for Craft						

FOOTNOTE:

a. Four Paid Holidays:
 July 4; Labor Day;
 Thanksgiving Day;
 Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
GROUP A	10.59	.50	.40			.10
GROUP B	10.02	.50	.40			.10
GROUP C	8.88	.50	.40			.10
GROUP D	11.34	.50	.40			.10
GROUP E	10.58	.50	.40			.10
GROUP F	9.02	.50	.40			.10

POWER EQUIPMENT OPERATORS:

GROUP A
 GROUP B
 GROUP C
 GROUP D
 GROUP E
 GROUP F

GROUP A
 Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine, (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B

Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C

Air compressor (125 & under), oilers-firemen, conveyor (1 tended by oiler), pumps (under 4 inches), welding machines (3 or under)

GROUP D

ON STEEL ERECTION: Crane, dragline, derricks, hoist, piledrivers winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E

Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F

Gas or diesel driven welding machine (3 or less), air compressor 125 and under (2 or less), oiler, fireman, small boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Alabama
DECISION NO.: AL80-1069

COUNTY: Tuscaloosa
DATE: Date of Publication
Supersedeas Decision No: AL79-1133 dated October 19, 1979 in 44 FR 60513
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	10.60		.40		.05
Carpenters	8.26				
Cement masons	6.50				
Electricians	13.05	.55	38+.40		0.5%
Glaziers	9.98	.80	.65	a	.005
Ironworkers	11.60	.60	.82		.06
Laborers:					
Laborers	3.85				
Air tool operators	4.45	.25	.15		
Mason tenders	4.35	.25	.15		
Lathers	9.50				
Painters, brush	8.00				
Plumbers & pipefitters	11.70	.37	.35		.08
Roofers	8.90		.20		.10
Sheet metal workers	11.88	.79	1.07		.09
Tile setters	10.35		.40		.05
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	6.51				
Crane	8.81				
Front end loader	5.50				
Roller	4.60				

FOOTNOTE:

a. Paid Holidays include: New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving and Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Alabama

COUNTIES: Colbert & Lauderdale
DATE: Date of Publication
DECISION NUMBER: AL80-1070
Supersedeas Decision No.: AL79-1065 dated April 13, 1979 in 44 FR 22305
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	12.46	.55	.80		.05
Boilermakers	10.70	1.05	1.00		.02
Bricklayers:					
Bricklayers, blocklayers, stonemasons	11.72				
Saw operator	11.97				
Carpenters:					
Carpenters, soft floor layers	11.10		.30		.10
Piledrivermen	11.35		.30		.10
Millwrights	11.60		.30		.10
Cement masons:					
Cement masons	9.60	.40			
Power tool operators	9.85	.40			
Electricians:					
Electricians	12.15	.55	38+.65		
Cable splicers	12.40	.55	38+.65		
Elevator constructors	10.56	.895	.69	a+b	.03
Ironworkers	10.60	.75	.75		.08
Laborers:					
Unskilled, mason tenders, mortar mixers & plasterers	6.82	.40	.50		
tenders					
Air tool operators & pipe-layers	7.02	.40	.50		
Painters:					
Commercial	9.35	.45	.25		.05
Industrial	10.50	.45	.25		.05
Plasterers	9.87	.40			
Plumbers, steamfitters	12.76	.75	.85		.13
Roofers	8.90		.20		.10
Sheet metal workers	11.88	.79	1.07		.09
Sprinkler fitters	11.94	.75	1.05		.08

FOOTNOTES:

- a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day
- b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	11.33	.50	.55		.05
GROUP B	9.89	.50	.55		.05
GROUP C	9.07	.50	.55		.05

POWER EQUIPMENT OPERATORS:

Group A - Backhoe, bulldozers, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, grade all, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking mechanic, master pilot, pile driver, post hole digger, scraper (pull type & self prop.), shovel, sweeper, tractor (spec. equip.), trenching machine, well point & winch truck operators

Group B - Bituminous dist., central air comp., concrete mixer (port.), fireman floating equip., front end loader, rubber tire, & cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 tons crane & over) outboard motor boat (when used for towing), paving machine, post hole digger mounted on farm type tractor & walk behind type trenching machine operators

Group C - Air compressor (port.), conveyor, fireman stationary equip., oiler, outboard motor boat & pump operators

Oiler driver - additional \$.10 per hour

All crane, derricks and gantry tower crane operators operating such equipment with an overall height of 150 ft. including jobs - additional \$.50 per hour

All scraper operators operating Tandem scrapers receive \$.25 per hour additional for each additional scraper (bowl).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. MN80-2034

Page 2

STATE: Minnesota
 COUNTY: Benton, Sherburne & Stearns
 DATE: Date of Publication
 SUPERSEDES Decision No. MN79-2024 dated May 4, 1979 in 44 FR 26476
 DESCRIPTION OF WORK: Building (Including Residential), Construction Projects

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS				
BOILERMAKERS	\$12.81	.60		.14
BRICKLAYERS & STONEMASONS	12.30	.85		.02
CARPENTERS:	11.80		1.00	
Building Construction		1.00		
Southern tip of Sherburne Co.		.25		
Carpenters, Millwrights & Piledrivers	11.66	.60	.60	.02
Soft Floor Layers	11.33	.81	.65	.02
Cities of Little Rock & Skaja in Benton County				
Carpenters	11.45			
Stearns Co., Remainder of Benton & Sherburne Counties				
Carpenters & Piledrivers men	12.43	.50		
Soft Floor Layers	7.50		a	
Site Preparation, Excavation & Incidental Paving:				
Benton & Stearns Counties				
Sherburne County (Portion that lies west of Hwy. #169	10.17	.50	.75	
Remainder of Sherburne County	9.97			
CEMENT MASONS:				
Building Construction				
Benton & Stearns Counties	9.55	.25		
Cement masons & Plasterers	12.43	.60		
Sherburne County	11.55	.50	.65	.02
Cement Masons				
Plasterers				
Site Preparation, Excavation & Incidental Paving				
Sherburne County	10.13	.60	.25	
Benton & Stearns Counties	9.90			

a - One week paid vacation

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:				
Benton & Stearns Cos.:				
Twps. of Haven, Palmer, Santiago, Becker & Clear Lake in Sherburne County:	7%	6%	10%	3/4 of 1%
Jobs under \$50,000	7%	6%	10%	3/4 of 1%
Jobs over \$50,000	5 3/4%	5 7/8%	11%	3/8%
Remainder of Sherburne County:	.40	.90		.04
GLAZIERS	11.47			
IRONWORKERS	12.95			
LABORERS:				
Building Construction				
Stearns & Benton Counties:				
General Laborers, Demolition & Wrecking; Concrete Joint Saw				
Op.; Signal Men	9.80	.15		
Power Buggy Operators	9.85	.15		
Mortar Mixers; Plasterer	9.90	.15		
Tenders	9.95	.15		
Jackhammer Men				
Underground; Caisson; Cofferdam & Tunnel work	10.05	.15		
Dynamite Men & Pilelayers	10.10	.15		
Sherburne County:				
Common, Carpenter Tender	10.05	.45	.40	
Wrecking & demolition	10.15	.45	.40	
Vibrator Op.; Jackhammermen;				
Mortar Mixers	10.20	.45	.40	
Underground work	10.30	.45	.40	
Pilelayers	10.35	.45	.40	
Caisson work - Underpinning	10.45	.45	.40	
Dynamite Men	10.755	.45	.40	
LATERS:				
Benton & Stearns Counties	11.79	.65	.01	
MARBLE SETTERS	12.355	.53		

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
PAINTERS: Eastern 2/3 of Sherburne County: Brush, Roller & Paper-hangers Spray, Structural Steel & Sandblasting Benton, & Stearns Counties & the Remainder of Sherburne County: Brush Structural Steel Spray PLUMBERS & STEAMFITTERS: Sherburne County: Plumbers Eastern 1/2 of County Steamfitters Eastern 1/2 of County Benton & Stearns Cos. & the Western 1/2 of Sherburne County: Plumbers & Steamfitters ROOFERS: SHEET METAL WORKERS SPRINKLER FITTERS TRUCK DRIVERS - Building WELDERS - receive rate prescribed for craft performing operation to which welding is incidental	\$12.01 12.61 9.25 10.25 10.25 11.94 11.94 12.37 10.10 11.66 14.10 9.80	.65 .65 .50 .50 .50 .53 .54 .70 .52 .75	.50 .50 3% 1.35 1.25 .53 .30 .72 1.05		.13 .13 .11 .11 .11 .05 .05 .06 .08 .08

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING LABORERS Sherburne County CLASS 1 CLASS 2 CLASS 3 CLASS 4 CLASS 5 CLASS 6 CLASS 7 CLASS 8 CLASS 9 CLASS 10 CLASS 11 CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Sub Setter (Stone or Precast Conc.) Kettleman (Bit. or lead); Service connection maker; Power Buggy; Joint Sawyer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill) CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer; Pipe Handler; Pipe Derrickman (Tripled, Manual) CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Other work more than 8' below level of manual work Open ditch Work	\$10.00 10.10 10.15 10.25 10.30 10.35 10.40 10.43 10.45 10.63 10.68	.60 .60 .60 .60 .60 .60 .60 .60 .60 .60 .60	.45 .45 .45 .45 .45 .45 .45 .45 .45 .45 .45	.40 .40 .40 .40 .40 .40 .40 .40 .40 .40 .40	

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
 CLASS 6 - Cement Gun (1½ & over); Leadman
 CLASS 7 - Nozzleman (Gunitite)
 CLASS 8 - Brick or Block Paving Setter
 CLASS 9 - Bituminous Raker, Floater & Utility Man
 CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
 CLASS 11 - Powderman

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LABORERS:
SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING

Benton & Stearns Counties

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$ 9.50	.55	.35	.40		
9.55	.35	.35	.40		
9.60	.55	.35	.40		
9.65	.55	.35	.40		
9.75	.55	.35	.40		
9.90	.55	.35	.40		
9.95	.55	.35	.40		
10.00	.55	.35	.40		

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers
 CLASS 2 - Form Setter (Municipal Type Curb & Sidewall, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shovelers Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, truck, etc.); Jackhammer, Joint Sawyer, Kettelman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
 CLASS 4 - Bituminous Raker, Floater & Utility Man; Caisson work, Cofferdam
 CLASS 5 - Leadman
 CLASS 6 - Gunitite
 CLASS 7 - Pipelayer (Sewer, Water & Gas)
 CLASS 8 - Powderman, Tunnel Miner

POWER EQUIPMENT OPERATORS:
BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits, Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CLASS 1	\$15.70	.75	.60			.05
CLASS 2	14.05	.75	.60			.05
CLASS 3	13.80	.75	.60			.05
CLASS 4	13.20	.75	.60			.05
CLASS 5	12.85	.75	.60			.05
CLASS 6	12.75	.75	.60			.05
CLASS 7	12.50	.75	.60			.05
CLASS 8	12.38	.75	.60			.05
CLASS 9	12.30	.75	.60			.05
CLASS 10	12.03	.75	.60			.05
CLASS 11	11.15	.75	.60			.05
CLASS 12	10.70	.75	.60			.05

CLASS 1 - Helicopter Operator
 CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
 CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
 CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
 CLASS 5 - Traveling Tower Crane
 CLASS 6 - Master Mechanic; Pile Driving Operator
 CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Crane; Fireman, Chief License
 CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Op., (2 or more machines); Hoist Engineer (two drums); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
 CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs-Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
 CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
 CLASS 11 - Air Compressor Op., 375 CFM or over; Pump and/or Conveyor Op.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Op. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.)
 CLASS 12 - Mechanical Space Heater (Temporary Heat) Oiler or Greaser; Elevator Operator

SITE PREPARATION EXCAVATION
& INCIDENTAL PAVING

	Basic Hourly Rates	Fringe Benefits, Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W)						
GROUP 1	\$ 15.99	.75	.60			.05
GROUP 2	12.66	.75	.60			.05
GROUP 3	12.25	.75	.60			.05
GROUP 4	12.12	.75	.60			.05
GROUP 5	12.03	.75	.60			.05
GROUP 6	11.05	.75	.60			.05
GROUP 7	10.45	.75	.60			.05

GROUP 1 - Helicopter Pilot
 GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
 GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole, Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
 GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled Traveling Soil Stabilizer
 GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs. Heavy Rotary or Churn or Cable Drill, Engineer in charge of plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple Machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven-Mighty might or similar type, Pick-up

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor Op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismantling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & spreader finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motor patrol), gunite op. gunall, lead greaser on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off

GROUP 7 - Brakeman, switchman, conveyor op., deckhand, fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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POWER EQUIPMENT OPERATOR: SITE

PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.:					
(East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1	\$15.65	.75	.60		.05
GROUP 2	12.36	.75	.60		.05
GROUP 3	11.95	.75	.60		.05
GROUP 4	11.83	.75	.60		.05
GROUP 5	11.73	.75	.60		.05
GROUP 6	10.7	.75	.60		.05
GROUP 7	10.15	.75	.60		.05
GROUP 1 - Helicopter Pilot					
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity					
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole, Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over					
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled, Traveling Soil Stabilizer					
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcher, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping					

POWER EQUIPMENT OPERATORS:
SITE PREPARATION, EXCA-
VATION & INCIDENTAL PAVING

Remainder of Benton &
Stearns Cos.

GROUP 1
GROUP 2
GROUP 3
GROUP 4
GROUP 5
GROUP 6
GROUP 7

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$15.20	.70	.55			.05
11.02	.70	.55			.05
10.32	.70	.55			.05
10.18	.70	.55			.05
10.10	.70	.55			.05
9.57	.70	.55			.05
9.17	.70	.55			.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, Excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & yds. & over, Grader or Motor Patrol Finishing earth & Bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole, Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-propelled, Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of plant requiring First Class License, Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcher, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane rollers, paving breaker or tamping machines op., (power-driven-Mighty might or similar type), Pick-up sweeper, 1 cu. yd. & over Hopper capacity Pipeline wrapping, cleaning or bending machine Op., Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

(POWER EQUIPMENT OPERATORS) (CONT'D)

Group 5 (Cont'd)

machines op., (power-driven-Mighty might or similar type, Pick-up Sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismantling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motor patrol), gunite op. gunall, lead grader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman, conveyor op., deckhand, firemen, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Vacation Education and/or Appr. Tr.
\$10.90	.65	.65	
10.45	.65	.65	
10.35	.65	.65	
10.15	.65	.65	

TRUCK DRIVERS:
SITE PREPARATION, EXCAVATION
& INCIDENTAL PAVING

Sherburne County

GROUP 1
GROUP 2
GROUP 3
GROUP 4

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helber (Gas, Oil, Road Oil & Water) Teamster and Stableman, Tractor Operator (Wheel Type used for any purpose) pilot car driver, self-propelled Packer; Slurry Operator; Single Axle Trucks.

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. op., tractor op., over D2, TD6 or similar HP with power take-off, tractor op., over 50 HP without power take-off, trenching machine op., (sewer, water, gas) turnapull op., (or similar type) well point in-stallation, dismantling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray, concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motor patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, Shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appl. Tr.
Benton & Stearns Counties					
GROUP 1	\$9.72	.65	.65		
GROUP 2	9.27	.65	.65		
GROUP 3	9.17	.65	.65		
GROUP 4	8.97	.65	.65		
GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck					
GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.					
GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.					
GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-propelled Packer; Slurry Operator; Single Axle Trucks.					

SUPERSEDES DECISION

STATE: South Dakota
DECISION NUMBER: SD80-5118
Supersedes Decision No. SD79-5113 dated March 16, 1979, in 44 PR 16322
COUNTRIES: Statewide
DATE: Date of Publication
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appl. Tr.
Concrete Finisher	\$8.16				
Form Builder	8.16				
Form Setter	7.84				
LABORERS:					
Air Tool Operator	5.92				
Common Laborer	5.92				
Landscape Worker	5.92				
Manhole Builder	7.48				
Piledriver (Leadman)	7.28				
Pipelayer (other than Culvert)	7.28				
Powderman (Blaster)	8.46				
PAINTERS	7.28				
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	7.04				
Asphalt Paving Machine	7.88				
Asphalt Paving Machine Tender	6.02				
Asphalt Plant Tender	6.66				
Asphalt Plant, stationary and traveling	8.46				
Bulldozer, 80 HP or less	7.18				
Bulldozer, over 80 HP	7.88				
Bullfloat Machine	7.58				
Concrete Batch Plant	7.88				
Concrete Mixer	6.90				
Concrete Paver	8.46				
Concrete Paving Cure Machine	7.00				
Concrete Paving Form					
Grader	8.06				
Concrete Paving Finishing Machine	8.06				
Concrete Paving Joint Machine	7.80				
Concrete Paving Joint Sealer	7.00				

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS: (Cont'd)				
Concrete Paving Saw	\$7.58			
Concrete Paving Spreader	8.06			
Concrete Paving Subgrader	7.88			
Conveyor	6.02			
Cranes, Derricks, Drag- lines, Piledrivers, Backhoes, and Shovels, 1½ cu. yds. or less	7.88			
Cranes, Derricks, Drag- lines, Piledrivers, Backhoes, and Shovels over 1½ cu. yds.	8.46			
Crusher, including those with integral Screening Plant	7.88			
Curb Machine	7.00			
Fireman (Boiler and Retort)	6.70			
Front End Loader, 1½ cu. yds. or less	6.90			
Front End Loader, 1½ cu. yds. to 3½ cu. yds.	7.58			
Front End Loader, over 3½ cu. yds.	7.88			
Mechanic, heavy duty	8.46			
Mechanic Tender	6.90			
Mechanic, maintenance	7.58			
Motor Grader, finish	8.46			
Oilier and Greaser	7.58			
Roller, self-propelled (Hot Mix)	7.00			
Roller, self-propelled (other)	6.38			
Roller, Sheepfoot or 50 ton, Pneumatic	7.00			
Scrapers	8.74			
Spreader (materials)	7.58			
Stationary Plant	7.00			
Tractor, Crawler or Pneumatic	7.00			

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS: (Cont'd)					
Tractor, farm type with attachments (including loader)	\$6.02 8.16				
Tractor, Pusher Traveling Plant (Stabilization)	7.88 6.02 7.58				
Traveling Plant Tender Trenching Machine Wagon Drill, including Airtrac, Trac-drill, etc.	7.58				
TRUCK DRIVERS:					
Euclid or Dumptor Truck Cranes	6.62 6.48				
Truck, single axle Truck, Tandem or Semi- trailer	5.92 6.38				
WELDERS:					
Welder, certified Welder, general	8.06 7.58				
LINE CONSTRUCTION:					
Group 1 Group 2 Group 3 Group 4 Group 5	12.31 12.28 9.85 8.21 7.54	.45 .45 .45 .45 .45	3% 3% 3% 3% 3%		1/2% 1/2% 1/2% 1/2% 1/2%

LINE CONSTRUCTION (Cont'd)

Group 1: Journeyman Cable Splicer; Journey Lineman

Group 2: Tractor Dozer Operator, D-4 and larger; All Rigs erecting steel tower and "H" pictures, also tension pulling Machines

Group 3: Groundman - operating special equipment. Hole Digging Machines; Aerial Baskets on energized circuits; Tractors, D-4 and larger, Transmission Line Pole hauling; All fifth wheel Trucks and other setting and assembly equipment excluding steel tower and "H" pictures erection

Group 4: Groundman - Truck or Tractor Driver with Winch; Operators of trucks up to and including 2½ tons; Tractor, including D-2 and smaller; including wheel tractors and Crawler Tractors

Group 5: Groundman - Truck or Tractor Driver, without Winch; Operators of truck, up to and including 2½ tons, Tractors, D-2 and smaller including wheel tractors and Crawler Tractors

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDES DECISION

STATE: TEXAS

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX80-4031

DATE: Date of Publication

Supersedes Decision No. TX80-4005, dated January 4, 1980, in 45 FR 1385

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education, and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS:					
ZONE 1 - Bell, Coryell & Falls	\$11.95	.70	.90		.08
ZONE 2 - Bosque, Hill & McLennan	11.86	.70	1.00		.03
BOILERMAKERS	12.00	.975	1.00		.03
BRICKLAYERS	11.50		.55		
CARPENTERS:					
ZONE 1 - Bell & Coryell Cos.					
Carpenters	10.10				
Millwrights	10.35				
ZONE 2 - Bosque, Falls, Hill & McLennan:					
Carpenters	10.58	.37			
Millwrights	11.35	.37			
CEMENT MASONS	9.89	.60	.55		
ELECTRICIANS:					
ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Cos.					
Electricians	11.50	.60	3%		4%
Cable splicers	12.50	.60	3%		4%
ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the south-east boundary line of Coryell Co., Gray Field & the City of Killeen)					

DECISION NO. TX80-4031

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
BUILDING CONSTRUCTION					
ELECTRICIANS ZONE 2 CONT'D: & Coryell (that part south of Cowhouse Creek) Counties Electricians & cable splicers	\$12.60	8%			.8%
ELEVATOR CONSTRUCTORS: Mechanics	10.37	.69	4%+a+b		.025
Helpers	70%JR	.69	4%+a+b		.025
GLAZIERS	7.50				
IRONWORKERS	11.45	1.15			.12
LABORERS: Unskilled	3.10				
Mason tenders & mortar mixers	3.55				
LATHERS	11.10	1.00			.05
LINE CONSTRUCTION: ZONE 1 - Bell (that portion which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen); Bosque, Coryell (that portion except part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Counties: Linemen Cable splicers Groundman	12.15 13.37 8.51	3% 3% 3%			1/2% 1/2% 1/2%
ZONE 2 - Bell (that portion which is nearer to Austin than Waco) & Coryell (that portion south of Cowhouse Creek) Cos.: Linemen Cable splicers Groundmen	13.86 15.25 9.70	3% 3% 3%			1/2% 1/2% 1/2%

DECISION NO. TX80-4031

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
BUILDING CONSTRUCTION					
PAINTERS: GROUP 1 - Brush GROUP 2 - Boiler Pipe & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair GROUP 3 - Ames tools for dry wall GROUP 4 - Spray work & self-feeding rollers GROUP 5 - Steam cleaning, sandblasting & hazardous work	\$ 9.40				.04
PLASTERERS PLUMBERS & PIPEFITTERS: ZONE 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton ZONE 2 - All other areas	9.90 10.00 10.15 10.50 10.54			.60 .55 .55	.04 .04 .04 .04 .01
ROOFERS: GROUP 1 - Slate, tile, asbestos, roofing & siding GROUP 2 - Composition, built-up damp & water-proofing GROUP 3 - Kettlemen SHEET METAL WORKERS: ZONE 1 - Within a radius of 20 miles from the McLennan Co. Court House ZONE 2 - Over 20 miles up to & including 45 miles ZONE 3 - Over 45 miles SPRINKLER FITTERS TRUCK DRIVERS WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.	10.88 11.28 6.95 6.80 5.10 10.40 10.90 11.40 12.79 3.10	.30 .30		.04 .04 .03 .03 .03 .60 .60 .60 1.05	.04 .04 .03 .03 .03 .09 .09 .09 .08

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PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru G

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
BUILDING CONSTRUCTION					
POWER EQUIPMENT OPERATORS					
GROUP 1	11.04		.40		
GROUP 2	9.97		.40		
GROUP 3	8.75		.40		
GROUP 4	8.64		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; bull clam; back filler; derricks, power operated (all types); dragline; push cat operator; euclid operator; bull dozer and all types of cat tractors; cable-way; back hoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts & loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching machine (all sizes); gradall; foundation boring machine; scoopmobile; shovel, power operated; pump crete machines; clam shell operator; rock crusher operated on job; welding machine, 6 to 12; two 125 cu. ft. compressors; well points, including installations

GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; truck crane driver & oiler, combination man; gasoline or diesel driven welding machine, 3 to 6; hoist, single drum; pump, 2 1/2 in. or larger; pneumatic roller; high-lifts & loaders, 1/3 cu. yd. or less; forklift, 1500 lbs. capacity or less; air compressors, any-time there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a) (1) (ii)).

DECISION NO. TX80-4031

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INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Air Tool Man	\$ 3.55				
Asphalt Heaterman	4.25				
Asphalt Raker	5.00				
Asphalt Shoveler	4.25				
Batching Plant Scaleman	5.50				
Carpenter	5.60				
Concrete Finisher (Paving)	4.10				
Concrete Finisher Helper (Paving)	5.50				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	6.00				
Concrete Rubber	4.00				
Electrician	4.00				
Form Builder (Structures)	8.90				
Form Builder Helper (Structures)	4.00				
Form Setter (Paving & Curb)	4.50				
Form Setter Helper (Paving & Curb)	4.00				
Form Setter (Structures)	4.65				
Form Setter Helper (Structures)	3.75				
Form Setter Helper (Structures)	5.75				
Laborer, Common	4.00				
Laborer, Utility Man	3.25				
Mechanic	3.50				
Mechanic Helper	5.25				
Oiler	4.10				
Serviceman	4.50				
Piledrivermen	4.75				
Pipelayer:	4.00				
Bosque, Falls, Hill & McLennan Cos.					
Pipelayer (Concrete & Clay):	5.50				
Bell & Coryell Cos.					
Pipelayer Helper:					
Bosque, Falls, Hill & McLennan Cos.					
Pipelayer Helper (Concrete & Clay):	3.30				
Bell & Coryell Cos.					
Bell & Coryell Cos.	3.30				

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Plumbers (Bell & Coryell Cos.):					
Zone 1 - 35 miles from Waco including towns of Temple & Belton	\$10.88	.30	.55		.04
Zone 2 - all area not included in Zone 1	11.28	.30	.55		.04
Powderman	5.50				
Reinforcing Steel Setter (Structures)	5.25				
Reinforcing Steel Helper	3.75				
Sign Erector	4.65				
Sign Erector Helper	3.30				
Spreader Box Man	4.60				
Swamper	4.55				
Power Equipment Operators:					
Asphalt Distributor	4.65				
Asphalt Paving Machine	5.10				
Broom or Sweeper Op.	4.50				
Bulldozer, 150 HP & Less	4.75				
Bulldozer, over 150 HP	5.00				
Concrete Paving Curing Machine	5.00				
Concrete Paving Saw	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & over)	6.50				
Crusher or Screening Plant Operator	4.60				
Foundation Drill Operator (Truck Mounted)	4.50				
Foundation Drill Op. Helper	4.25				
Front End Loader (2½ CY & Less)	4.65				
Front End Loader (Over 2½ CY)	5.00				
Motor Grader Op., Fine Grade	6.55				
Motor Grader Operator	5.30				

INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Power Equipment Ops. Cont'd:						
Roller, Steel Wheel (Plant-Mix Pavements)	\$ 4.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.50					
Roller, Pneumatic (Self-Propelled)	3.85					
Scrapers (17 CY and Less)	4.50					
Scrapers (Over 17 CY)	5.00					
Tractor (Crawler Type) 150 HP and Less	3.30					
Tractor (Crawler Type) over 150 HP	4.60					
Tractor (Pneumatic) 80 HP & Less	3.70					
Tractor (Pneumatic) over 80 HP	4.85					
Traveling Mixer	4.10					
Trenching Machine, Light	4.00					
Trenching Machine, Heavy	4.45					
Wagon Drill, Boring Machine or Post Hole Driller Op.	4.20					
Truck Drivers:						
Single Axle, Light	4.00					
Single Axle, Heavy	4.00					
Tandem Axle or Semitrailer	4.00					
Lowboy-Float	4.80					
Welder	5.25					
Welder Helper	3.60					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a) (1) (ii)).

SUPERSEDEAS DECISION

DECISION NO. TX80-4032

COUNTY: Bexar

STATE: Texas

DECISION NO.: TX80-4032
 Supersedes Decision No. TX79-4086, dated October 5, 1979, in 44 FR 57632

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$11.95	.70	.90			.08
BOILERMAKERS	12.00	.975	1.00			.03
BRICKLAYERS & STONEMASONS	11.48	.57	.30	.25		.05
CARPENTERS:						
Carpenters	10.69	.48	.60	.40		.05
Millwrights	10.99	.48	.60	.40		.05
CEMENT MASONS	10.25	.45		.65		.02
ELECTRICIANS:						
Electricians	11.69	.60	5%			1%
Cable splicers	11.94	.60	5%			1%
ELEVATOR CONSTRUCTORS:						
Mechanics	11.21	1.045	.82	.48+a+b		.035
Helpers	70%JR	1.045	.82	.48+a+b		.035
GLAZIERS	6.80					
IRONWORKERS	10.15	.55	1.30	.50		.12
LABORERS:	6.72	.57	.40			.05
GROUP 1 - General laborers & equipment operators; cutting torch man; power buggy op.; wagon drill op.; well driller; drilling rig tender; cement finisher tender; handling creosoted materials; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe laying; plasterer tender; brick tender; lather tender	6.97	.57	.40			.05
GROUP 3 - Mortar mixer man; grout machines; pumpcrete machines; gunnite mixing machines; running sand dryer & loading; operating sand blaster; bell hole man; blaster; powderman; gunnite nozzleman	7.22	.57	.40			.05

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
LINE CONSTRUCTION:						
Lineman	12.09	.60	3%			1/2%
Cable splicer	12.34	.60	3%			1/2%
Groundman	6.65	.60	3%			1/2%
MARBLE SETTERS	9.82	.57	.30	.25		
MARBLE SETTERS' FINISHERS	6.87					
PAINTERS:						
Brush; paperhanger; taper & floater; hand roller	9.85		.20			.05
Brush on all structural steel; spray on any other surface other than steel	10.10		.20			.05
PLUMBERS & PIPEFITTERS	12.74	.60	.55			.10
ROOFERS:						
Roofers; deckman	8.21	.50				
Kettlemen	7.27	.50				
Waterproofers	7.72	.50				
SHEET METAL WORKERS	11.93	3%+.45	.96			.09
SOFT FLOOR LAYERS	6.35					
SPRINKLER FITTERS	12.79	.75	1.05			.08
TERRAZZO WORKERS	9.82	.57	.30	.25		
TERRAZZO WORKERS' FINISHERS:						
Terrazzo finishers	6.87					
Floor machine operators	7.07					
Base machine operators	7.22					
TILE SETTERS	9.82	.57	.30	.25		
TILE SETTERS' FINISHERS	6.87					
TRUCK DRIVERS	3.64					
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 mos. - none; 6 mos. to 5 years. - 23; over 5 yrs. - 4% of basic hourly rate
 b - Paid Holidays A thru G

DECISION NO. TX80-4032

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STATE: Texas
 DECISION NO.: TX80-4034
 SUPERSEDES Decision No. TX79-4046, dated August 17, 1979, in 44 FR 48593.

COUNTY: Brazos
 DATE: Date of Publication
 August 17, 1979, in 44

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GROUP 1	\$10.27	.45	\$1.00			
GROUP 2	9.15	.45	1.00			
GROUP 3	7.70	.45	1.00			
GROUP 4	7.40	.45	1.00			

POWER EQUIPMENT OPERATORS

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; all rollers (5 tons or over); backfiller; backhoe; blade graders (self-propelled); bull clam; bulldozers; cableway; clamshell operator; crane (power operated, all types); derricks (power operated, all types); draglines; DW-10 caterpillar and similar tractors; elevating graders (self-propelled); euclid; fork lift used on construction; gasoline or diesel-driven welding machines (7 to 12); gradall; heavy duty mechanic; high lifts; hoist (two drums or more); locomotives; mixer (14 cu. ft. or over); mixmobile; paving mixers (all sizes); piledriver; pumpcrete machine operator; rock crusher operator on job; scoopmobile; scrapers; shovel (power operated); turnapulls; trenching machines (all sizes); winch truck

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); blade graders (towed); building elevator used on construction; flex planes; form graders; hoist (single drum); mixer (less than 14 cu. ft.); pneumatic roller; pulsometers; pump (2½ or larger shall require a light equipment operator); three to six welding machines or any three pieces or equipment of equal or similar nature

GROUP 3 - Fireman
 GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$13.12	1.00	1.08			.05
BOILERMAKERS	12.00	.975	1.00			.03
BRICKLAYERS & STONEMASONS	13.30	.89	.80			.06
CARPENTERS	10.80					
CEMENT MASONS	12.50	.68	.97			.08
ELECTRICIANS	12.825	1.00	1.08			.08
ELEVATOR CONSTRUCTORS:						
Mechanics	12.56	1.195	.82	48+a+b		.035
Helpers	70%JR	1.195	.82	48+a+b		.035
GLAZIERS	12.61	.67	.675			.02
IRONWORKERS	12.86	.55	1.70			.10
LABORERS:						
GROUP 1	6.29	.47	.41			.02
GROUP 2	6.39	.47	.41			.02
GROUP 3	6.49	.47	.41			.02
GROUP 4	6.44	.47	.41			.02
GROUP 5	6.54	.47	.41			.02
GROUP 6	6.69	.47	.41			.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler & wheeler (stock pile), asphalt ironer & raker, pipe layer (non-metallic), pumpcrete pipe (handling & laying) & all building construction labor excepting that hereinafter classified; carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); dumper & spotter

GROUP 2 - Air tool operator

GROUP 3 - Well driller

GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling from first stock pile; concrete pipe (handling & laying); sand blaster; power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender

GROUP 5 - Tool room tender; mortar mixer (hoe or otherwise); blaster; powder man; gunnite worker

GROUP 6 - Gunnite nozzleman

LINE CONSTRUCTION:

Lineman & cable splicer

Groundman

12.30	.60	14	14
7.13	.60	33	33

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	\$11.38	.63	.20		
GROUP 2 - All spray painting, sandblasting, water-blasting	11.705	.565	.55	.40	.04
GROUP 3 - Tape, float & dry-wall	12.08	.565	.55	.40	.04
GROUP 4 - Steeple jack work, hot materials	11.83	.565	.55	.40	.04
PIPEFITTERS	12.33	.565	.55	.40	.04
PLASTERERS	13.70	.70	.80		.06
PLUMBERS	12.40	.87	.40		.02
	13.22	.75	.80		.12
SHEET METAL WORKERS	12.86	38+.45	.74	.42	.10
SOFT FLOOR LAYERS	11.37	.50	.45		.14
TERRAZZO WORKERS	11.38	.63	.20		
TILE SETTERS	11.38	.63	.20		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
 A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

- a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
 b - Paid Holidays A thru G
- Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

[FR Doc. 80-10989 Filed 6-5-80; 8:45 am]

BILLING CODE 4510-27-C

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	11.94	.75	1.00		.07
GROUP 2	10.08	.75	1.00		.07
GROUP 3	9.45	.75	1.00		.07
GROUP 4	9.24	.75	1.00		.07

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader, self-propelled; bull clam; back filler; derrick-power operated (all types); clam shell; draglines; push cat operator; bull dozer & all types cat tractors; cable-way; backhoe; shovel; power operated; crane, power operated (all types); elevating grader, self-propelled; hoist, motor-driven, two drums or more; mix mobile; water well drilling machines, used on construction; building elevator, used on construction; tug boat operator, assigned to construction; winch truck; locomotive crane; concrete mixer, 14 cubic feet or more; paving mixer (all types); pile driver; scraper, heavy type, over 3 cubic yards; trenching machine (all sizes); gradall; high-lift; foundation boring machine; gasoline or diesel-driven welding machines, 7 or more; pumpcrete machine operator; turnapulls; DW-10 Caterpillar, S-18 euclid and similar tractors; asphalt plant mixer operator on job; crusher operator on job; scoopmobiles; forklift used on construction (not including warehousing); well point pump; concrete batch plant operator; pneumatic rollers, self-propelled;

GROUP 2 - Air compressors; blade grader, towed; flex plane; form grader; concrete mixer, less than 14 cubic feet; pumps; pulsometer; truck crane driver; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); hoist, single drum; scraper, 3 cubic yards or less; wagon drill operator; conveyor; generator, gasoline or diesel driven, over 1500 watts; rubber tired farm tractor with attachments; a light equipment operator may run 1 or 2 105 cfm compressors

GROUP 3 - Fireman
 GROUP 4 - Oiler

Federal Register

Friday
June 6, 1980

Part III

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Certain Alcohol and Tobacco Products
Excise Tax Payments; Proposed
Rulemaking on Electronic Fund Transfer
and Return and Deferral Periods

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Parts 19, 70, 240, 245, 250, 270, and 275****[Notice No. 341]****Electronic Fund Transfer for Certain Alcohol and Tobacco Products Excise Tax Payments and Other Provisions****AGENCY:** The Bureau of Alcohol, Tobacco and Firearms (ATF).**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is publishing for comment proposed regulations that would require alcohol and tobacco products excise taxpayers, who pay five million dollars or more in excise taxes in a fiscal year (large taxpayers), to pay these taxes by electronic fund transfer. This electronic fund transfer would provide the U.S. Treasury with immediate credit of funds and make them available for use on the actual date the excise taxes are due rather than several days later. Under present regulations, the Federal Government loses up to three or more days' use of the tax money due while checks, money orders, or other acceptable forms of payment are being delivered by mail and then cleared through the banking system.

These proposed regulations are classified as major and are supplemented by a draft regulatory analysis.

DATES: Comments must be received on or before August 5, 1980.

ADDRESS: Send comments on this proposal and requests for a copy of the draft regulatory analysis to—Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: For information on the proposed regulations, contact Armida N. Stickney or James A. Hunt at 202/566-7626.

For information on the draft regulatory analysis, contact Cliff A. Mullen at 202/566-7531.

SUPPLEMENTARY INFORMATION:**A. Introduction**

During 1978, the President's Reorganization Project (PRP) Team recommended to the Department of the Treasury a cash management improvement project within ATF that would promote interest savings to the

U.S. Treasury. In effect, alcohol and tobacco products excise tax payments from approximately 150 large revenue-producing taxpayers (individual plants) would be collected via electronic fund transfer.

In response to the Semiannual Agenda published in the *Federal Register* (44 FR 6686), three trade associations representing the alcoholic beverage and tobacco products industries sent ATF written analyses regarding the impact of the ATF/PRP Cash Management Program on the alcoholic beverage and tobacco products industries. The general thrust of these analyses is that these industries would incur increased monetary costs, because the taxpayers would be required to increase their capital outlays to make the tax payments at an earlier date to the U.S. Treasury. Mathematical procedures for calculating the dollar value of the benefit and cost to these industries were included in the analyses. The value of the benefit which the industries would lose under the electronic fund transfer, moreover, was described in the analyses as a "loan" to the U.S. Treasury.

ATF recognizes that a time delay on taxes due is a benefit to a taxpayer who manages his/her cash so that a "float" of funds is made available for other uses or to preclude borrowing which might otherwise be necessary. The U.S. Treasury, however, has a mandate as expressed in 31 U.S.C. 1002 to exercise efficient cash management in its financial operations. In addition, the Internal Revenue Code generally leaves the time and method for collecting the tax to the discretion of the Secretary of the Treasury. For example, under the current return system, the Secretary of the Treasury has allowed for tax payment to be delayed as much as 30 days from the time malt beverages are removed and tax liability is incurred by a brewer. The opportunity cost of these funds by the Federal Government is the cost incurred by the Federal Government for borrowing this same amount of funds from other sources.

Tax payments made by electronic fund transfer would allow the Federal Government to exercise improved cash management by reducing the length of time permitted the industries to use interest free those funds owed by them to the Federal Government.

ATF believes that an improved cash management on the part of the Federal Government is consistent with the mandate contained in 31 U.S.C. 1002.

ATF proposes, therefore, to implement the ATF/PRP Cash Management Program which would require that excise tax payments, from large taxpayers defined as those whose

excise tax payments are five million dollars or more annually, be transmitted electronically by the Federal Reserve Communications System (FRCS) and the Treasury Financial Communications System (TFCS).

B. Current Procedures

ATF administers the collection of approximately seven billion dollars annually in alcohol and tobacco products excise taxes from U.S. brewers, distillers, winemakers, and manufacturers of tobacco products.

Under the present system of collecting alcohol and tobacco products excise taxes, the taxpayer generally prepares and mails a tax return semimonthly, accompanied by a check or money order, to the district director of the Internal Revenue Service (IRS). The district director deposits the remittance with a local bank designated to accept deposits to the Account of the U.S. Treasury and mails the tax return and confirmed certificate of deposit to the IRS Service Center.

Consequently, considerable time elapses between the time the tax is paid and the time the tax payment is accredited to the Treasury's Account.

C. Proposed Method of Delivering Payment by Using TFCS

The Treasury Financial Communications System (TFCS) is the computer-to-computer link between the Department of the Treasury and the Federal Reserve Bank of New York (FRBNY). This system provides the capability for (1) automated receipt and processing of fund transfers and (2) computer-assisted generation of fund transfers between Treasury, Federal Reserve banks, and other banks utilizing the Federal Reserve Communications System (FRCS). The TFCS also integrates such traffic into the Government-wide Accounting System of the Treasury which accounts for all Federal receipts and outlays. Since the Department of the Treasury maintains an account at FRBNY, banks that maintain an account at a Federal Reserve bank may make electronic fund transfers to the Treasury through the FRCS. Electronic fund transfers between the Treasury and banks that do not maintain an account at a Federal Reserve bank are processed through correspondent banks that do maintain an account at a Federal Reserve bank.

Commercial banks that are members of the FRCS (approximately 5,000 of the 15,000 banks in the United States) also act as correspondents for the nonmember commercial banks, thus allowing deposit movements between practically all banking institutions.

D. Proposed Procedures

ATF is proposing to require a new method of delivering payment of the tax to the Account of the U.S. Treasury at the Federal Reserve Bank of New York by means of electronic fund transfer.

The proposal applies only to those large taxpayers who paid five million dollars or more in alcohol or tobacco products excise taxes during the previous fiscal year. Of the approximately 1,200 alcohol and tobacco products excise taxpayers filing returns, approximately 150 would qualify as "large" taxpayers and would be affected by the proposal.

ATF would provide specific information and instructions by use of a notice form and industry circular on how to make the tax payments via electronic fund transfer. The sample format of the notice form is briefly depicted below.

BILLING CODE 4810-31-M

SAMPLE FORMAT: ELECTRONIC FUND TRANSFER NOTICE

TO		TYPE		
FROM	REF	AMOUNT		
ORDERING BANK AND RELATED DATA				
TREAS NYC/ ()				

- Item 1 - Priority Code (to be provided by the sending bank).
- Item 2 - Treasury Department Code (a constant).
- Item 3 - Type Code (to be provided by the sending bank).
- Item 4 - Sending Bank Code (to be provided by the sending bank).
- Item 5 - Reference Number (to be inserted by the sending bank).
- Item 6 - Amount (to be provided by the taxpayer).
- Item 7 - Sending Bank Name (to be provided by the sending bank).
- Item 8 - Treasury Department Name (a constant).
- Item 9 - Agency Location Code (to be provided by ATF).
- Item 10 - Agency Name (to be provided by ATF).
- Item 11 - Third Party Information (to be provided by ATF).

E. Proposed Changes to the Regulations

Generally, these proposed amendments would add new provisions to 27 CFR Parts 19, 70, 240, 245, 250, 270, and 275, requiring large taxpayers to make their excise tax payments by electronic transmission to the U.S. Treasury through Government depositories and, if needed, nonmember clearing banks.

F. Provisions From 26 CFR Parts 301 and 601 Incorporated Into 27 CFR Part 70 and Other Amendments

Provisions applicable to ATF, appearing in 26 CFR Parts 301 and 601, with respect to certain procedural rules governing the tax payment of the excise tax of distilled spirits, wine, beer, and tobacco products would be incorporated into 27 CFR Part 70—Procedure and Administration—at a later date.

However, as amended below, a new Subpart D—Use of Government Depositories—and a new section would be added to 27 CFR Part 70 to provide for the use of Government depositories in transmitting certain excise tax payments by electronic fund transfer to the U.S. Treasury.

Other amendments in the affected parts of 27 CFR are editorial in nature.

G. Public Participation

ATF requests comments from all interested persons. All comments received on or 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. Copies of the proposed changes, of the draft regulatory analysis, and of written comments are available for public inspection during normal business hours at the ATF Reading Room, Room 5207, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

H. Drafting Information

The principal author of this document is Armida N. Stickney of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and other agencies and offices of the Treasury Department participated in

developing the document, both on matters of substance and style.

I. Compliance With Executive Order 12044

In compliance with Executive Order 12044, a draft regulatory analysis has been prepared to accompany this notice of proposed rulemaking. The draft regulatory analysis reflects the economic consequences of the proposed amendments. This draft regulatory analysis is available at request and may be inspected during normal business hours at the above-mentioned ATF Reading Room.

J. Authority and Proposed Changes

These proposed regulations would be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

As proposed, 27 CFR Parts 19, 70, 240, 245, 250, 270, and 275 would be amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

1. In the table of sections to 27 CFR Part 19 §§ 19.523a and 19.523b would be added to read as follows:

* * * * *

Subpart O—Transfers and Withdrawals

Sec.

* * * * *

19.523a Delivery of tax payment by electronic fund transfer.

19.523b ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. In § 19.11 the following terms would be added and inserted in alphabetical order:

§ 19.11 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's

Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositories. Federal Reserve banks and general depositories. The term "general depositories" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

§ 19.523 [Amended]

3. Section 19.523 would be amended by changing the prepositional phrase, "with remittance", wherever it appears, to read "and remittance as required by § 19.523a or § 19.524".

4. Sections 19.523a and 19.523b would be added to read as follows:

§ 19.523a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided by this section, notwithstanding any provisions of §§ 19.522 and 19.523, a proprietor who pays an amount of five million dollars or more in excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on spirits for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator of that fact, in writing, and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The proprietor shall, for each return period, direct the bank to send an electronic fund transfer message as provided in § 19.523b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the time for filing returns as provided in § 19.523. The request shall take into account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 19.522, shall file returns and send remittances by electronic fund transfer, for each return period as provided in § 19.523.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 19.524. During the first return period in which the proprietor chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 5110.32 or Form 5110.35, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, will be filed with the district director.

(c) *Remittance.* (1) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each proprietor shall show on the return, Form 5110.32 or 5110.35, required under § 19.524, information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depositary for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer

message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 19.523b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the proprietor on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The proprietor shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the director of the service center, and the original plus one copy will be forwarded by certified or registered mail to the proprietor. The proprietor shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

PART 70—PROCEDURE AND ADMINISTRATION

1. The table of sections to 27 CFR Part 70 would be amended by adding a new subpart, Subpart D—Use of Government Depositaries—and by listing a new section pertaining to this new subpart. As amended, the table of sections would read as follows:

Subpart D—Use of Government Depositaries

Sec.
70.51 Use of Government depositaries.

2. Section 70.1 would be revised to read as follows:

§ 70.1 General.

This part sets forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for—

(a) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for

examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers; and

(b) The use of Government depositaries for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

3. In § 70.11 the following terms would be added and inserted in alphabetical order:

§ 70.11 Meaning of terms.

Electronic fund transfer or EFT. Any transfer of funds, other a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain an account in the name of the U.S. Treasury for the purpose of accepting deposits for credit to that account.

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

4. Subpart D and § 70.51 would be added to 27 CFR Part 70 and would read as follows:

Subpart D—Use of Government Depositaries

§ 70.51 Use of Government depositaries.

For provisions relating to the use of Government depositaries and electronic fund transmission of tax payment to the U.S. Treasury, see the regulations relating to the particular tax.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

PART 240—WINE

1. In the table of sections to 27 CFR Part 240 §§ 240.591a—240.591b would be added and §§ 240.591, 240.594 and 240.595 would be revised. Such entries would read as follows:

Subpart AA—Tax Payment of Wine

Sec.

240.591 Payment of tax by check, cash, or money order.

240.591a Delivery of tax payment by electronic fund transfer.

240.591b ATF Form (Pending)—Electronic Fund Transfer Notice.

240.594 Prepayment of tax; general.
240.595 Prepayment of tax; proprietor in default.

2. In § 240.10 the following terms would be added and inserted in alphabetical order:

§ 240.10 Meaning of terms.

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in a particular State in which a claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

Government depositaries. Federal Reserve banks and general depositories. The term "general depositories" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in

the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

§ 240.590a [Amended]

3. Paragraph (b) of § 240.590a would be amended by changing the prepositional phrase, "with remittances", wherever it appears, to read "and remittances as required by § 240.591 or § 240.591a."

4. The title to § 240.591 would be amended to read as follows:

§ 240.591 Payment of tax by check, cash, or money order.

5. Sections 240.591a and 240.591b would be added to read as follows:

§ 240.591a Delivery of tax payment by electronic fund transfer.

(a) **General.** Except as provided in this section, notwithstanding any provisions of § 240.591(a)-(c), a proprietor who pays an amount of five million dollars or more in wine excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on wine for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) **Requirements.** (1) On or before October 10 of each fiscal year, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The proprietor shall, for each return period, direct the bank to send an electronic fund transfer message as provided in § 240.591b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the third calendar day next succeeding the last day of each return period. The request shall take into

account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 240.590a, shall file returns and send remittances by electronic fund transfer, for each return period, not later than the last day of the return period next succeeding that period.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, the proprietor may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 240.591(c). During the first return period in which the proprietor chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 2050, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) **Remittance.** (1) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each proprietor shall show on the return, Form 2050, required under § 240.591, information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depository for the Treasury's Account.

(d) **Failure to request an electronic fund transfer message.** For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) **Extension of time for paying tax.** No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) **Other cross references.** For regulations governing the handling of any transfer of funds for the payment of tax by Government depositories and requests for such transfers, see 12 CFR part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub.

L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1))

§ 240.591b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the proprietor on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The proprietor shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forward to the director of the service centers, and the original plus one copy will be forwarded by certified or registered mail to the proprietor. The proprietor shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

6. Section 240.594 would be revised to read as follows:

§ 240.594 Prepayment of tax; general.

(a) A proprietor shall, before removal of the wine for consumption or sale, file with the district director a wine tax return, Form 2052, with remittance, where (1) he is required to prepay tax under § 240.595, (2) his tax deferral bond (or bonds), Form 2053, is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of such bond by more than \$100, or (3) he does not have an approved tax deferral bond, Form 2053, and the total amount of tax unpaid at any one time exceeds \$100. The return, with remittance, shall be filed by forwarding or delivering it to the district director. For the purpose of complying with this section, the term "forwarding" shall mean deposit in the United States mail, properly addressed to the district director.

(b) However, when a proprietor is required by § 240.591a to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by (1) completing the return, Form 2052, and by mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator and (2) by directing the proprietor's bank to effect an electronic fund transfer message.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6302))

7. Section 240.595 would be revised to read as follows:

§ 240.595 Prepayment of tax; proprietor in default.

Where a payment of taxes on wine is not made on presentment of check or money order tendered, or where the proprietor is otherwise in default in payment of the tax under § 240.591 or § 240.591a, no wine shall be removed for consumption or sale until the tax has been paid as provided in § 240.594, for the period of the default and until the regional regulatory administrator finds the revenue will not be jeopardized by payment of the tax as provided in § 240.591 or § 240.591a. Any remittance made during the period of the default shall be in cash, or shall be in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of any State, Territory, or possession of the United States, or in the form of a money order, or in the form of an electronic fund transfer message.

(Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6302))

8. Section 240.901 would be amended by adding to the end the following sentence:

§ 240.901 Form 2050.

* * * The original and two copies of Form 2050 shall be filed with the district director as provided in § 240.591 or with the director of the service center if tax payment is made by EFT as provided in § 240.591a; and, at the same time, a copy shall be forwarded to the regional regulatory administrator.

9. Section 240.902 would be revised to read as follows:

§ 240.902 Form 2052.

(a) When the proprietor is required to prepay tax, as provided in §§ 240.594(a) and 240.595, the proprietor shall first prepare Form 2052, as instructed on the form, in an amount sufficient to cover the tax on the quantity of wine proposed to be removed that day. Forms 2052 shall be delivered to the district director or deposited in the U.S. mail properly addressed to the district director, together with a remittance as provided in § 240.594(a) prior to removal of the wine. At the same time, a copy of Form 2052 shall be forwarded to the regional regulatory administrator.

(b) In the case of a prepayment of tax by EFT as provided in §§ 240.594(b) and

240.595, the proprietor shall (1) follow the procedures as stated in paragraphs (a) and (c) of this section, except that Form 2052 shall be delivered to the director of the service center; and, at the same time, a copy shall be forwarded to the regional regulatory administrator; and (2) direct his bank to effect an electronic fund transfer message.

(c) Form 2052 will be serially numbered by the proprietor, commencing with "1" on January 1 of each year. Form 2052 shall be executed by the proprietor under penalties of perjury. Credit for the amount prepaid on Form 2052 will be taken on the tax return, Form 2050, covering all removals for consumption or sale for the period covered by the return.

PART 245—BEER

1. The table of sections to 27 CFR Part 245 would be amended as shown below:

Subpart N—Tax on Beer

Sec.	
245.112	Method of tax payment.
245.117	Semimonthly return.
245.117a	Delivery of tax payment by electronic fund transfer.
245.117b	ATF Form (Pending)—Electronic Fund Transfer Notice.
245.117c	Brewer in default; tax to be prepaid.
245.117d	Prepayment of tax.
245.117e	Employer identification number.
245.117f	Application for employer identification number.
245.117g	Execution of Form SS-4.

2. In § 245.5 the following terms would be added and inserted in alphabetical order:

§ 245.5 Meaning of terms.

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or

authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

November clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

3. Section 245.112 would be amended to read as follows:

§ 245.112 Method of tax payment.

The tax on beer shall be paid by return on Form 2034, as provided in §§ 245.117, 245.117a, 245.117c, and 245.117d. The tax shall be paid by remittance at the time the tax return is rendered. The remittance shall be made in cash, by check or money order made payable to the "Internal Revenue Service", or shall be delivered by electronic fund transfer message to a Government depository. * * *

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); sec. 201, Pub. L. 85-859, 72 Stat. 1335 (26 U.S.C. 5061))

§ 245.117a [Redesignated]

4. Existing § 245.117a would be redesignated as § 245.117 and would be amended by changing in paragraph (a) the section citation "§ 245.117c" to read "§ 245.117d" and by changing in paragraph (e) the prepositional phrase,

"with remittance" to read ", and remittance as required by § 245.117 or § 245.117a.". Moreover, paragraph (f) would be revised to read as follows:

§ 245.117 Semimonthly return.

(f) *Timely filing.* (1) When the brewer sends the semimonthly return, with remittance as required by this section to the office of the district director or without remittance as required by § 245.117a to the director of the service center, by U.S. mail, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the return and, if accompanied, the remittance. When the postmark on the cover is illegible, the brewer shall prove when the postmark was made.

(2) When the brewer sends the semimonthly return, with remittance required by § 245.117 or without remittance as required by § 245.117a, by registered mail, the date of the registry, or the date of the postmark on the sender's receipt of certified mail, shall be treated as the date of delivery of the return and, if accompanied, the remittance.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85-859, 72 Stat. 1335 (26 U.S.C. 5061))

5. A new § 245.117a would be added, to read as follows:

§ 245.117a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 245.117, a brewer who pays an amount of five million dollars or more in excise taxes on beer during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each brewer who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year shall be delivered by electronic fund transfer.

(2) The brewer shall, for each return period, direct his bank to send an electronic fund transfer message, as provided in § 245.117b, to the Treasury's

Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the close of the last full calendar day of the return period succeeding that period. The request shall take into account any time limit established by the bank.

(3) If a brewer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed in § 245.117. During the first return period in which the brewer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the brewer shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 2034 (5130.7), showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* (1) The brewer shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The brewer will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each brewer shall show on the return, Form 2034 (5130.7), required under § 245.117, information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date of the transfer is received by a Government depository for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions in 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositaries and requests for such transfers, see 12 CFR Part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub.

L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 245.117b [Redesignated]

6. Existing § 245.117b would be redesignated as § 245.117c and would be revised to read as follows:

§ 245.117c Brewer in default; tax to be prepaid.

Where a remittance in payment of taxes on beer is not paid on resentment of check or money order tendered, or where the brewer is otherwise in default in payment of tax under § 245.117 or § 245.117a, no beer shall be removed for consumption or sale or taken from the brewery for removal for consumption or sale until the tax has been prepaid as provided in § 245.117d. The brewer shall continue to prepay during the time that he is in default and thereafter until the regional regulatory administrator finds the revenue will not be jeopardized by deferred payment of tax under the provisions of this subpart. Any remittance made which the brewer is required to prepay under this section shall be in cash, in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of any State or possession of the United States, or in the form of a money order, as provided in 26 CFR 301.6311-1, or shall be delivered in the form of an electronic fund transfer message as provided by §§ 245.117a and 245.117b.

7. A new § 245.117b would be added to read as follows:

§ 245.117b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the brewer on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The brewer shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the director of the service center, and the original plus one copy will be forwarded by certified or registered mail to the brewer. The brewer shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

§ 245.117c [Redesignated]

8. Existing § 245.117c would be redesignated as § 245.117d and would be revised to read as follows:

§ 245.117c Prepayment of tax.

(a) *General.* When a brewer is required to prepay tax under § 245.117c, or when the penal sum of the bond(s), Form 1566, is insufficient for deferral of payment of tax on beer to be removed for consumption or sale, or when a brewer is not entitled to defer the tax under the provisions of this subpart, the brewer shall prepay the tax before any beer is removed for consumption or sale, or taken out of the brewery for removal for consumption or sale.

(b) *Method of prepayment.* (1) Prepayment shall be made by forwarding or delivering to the district director a tax return, Form 2034 (5130.7), with remittance, covering the tax on beer. The word "Prepayment" shall be prefixed to the title of the return. For the purposes of complying with this paragraph, the term "forwarding" means depositing in the U.S. mail, properly addressed to the district director.

(2) However, if a brewer is required by § 245.117a to deliver payment of tax by electronic fund transfer, the brewer shall prepay the tax before any beer can be removed for consumption or sale by completing the return and by mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator. The brewer shall direct his bank to effect an electronic fund transfer message.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311); sec. 201, Pub. L. 85-859, 72 Stat. 1335 (26 U.S.C. 5061))

§ 245.117d-245.117f [Redesignated]

9. Existing §§ 245.117d, 245.117e, and 245.117f would be redesignated as §§ 245.117e, 245.117f, and 245.117g, respectively.

10. Section 245.227 would be revised to read as follows:

§ 245.227 Beer tax return; Form 2034 (5130.7).

All entries in the return, Form 2034 (5130.7), shall be fully supported by accurate and complete records. The brewer shall file the copy returned to him by the director of the service center as a part of his records at the brewery.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, 1390, 1395 (26 U.S.C. 5061, 5415, 5555))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

1. In the table of sections to 27 CFR Part 250 §§ 250.112b and 250.112c be added to read as follows:

* * * * *

Subpart E—Tax Payment of Liquors and Articles in Puerto Rico

Sec.

* * * * *

Payment of Tax by Return

* * * * *

250.112b Delivery of tax payment by electronic fund transfer.

250.112c ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. Section 250.11 would be amended by adding the following new terms in alphabetical order:

§ 250.11 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account",

for the purpose of accepting deposits for credit in that account.

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

3. In § 250.112 paragraph (e) would be amended to read as follows:

§ 250.112 Taxes to be collected by returns for semimonthly periods.

(e) *Filing.* The original and two copies of returns on Forms 5110.52, 2927, or 2929, with remittance covering the full amount of the tax, shall be filed with the Officer-in-Charge not later than the last day for filing as prescribed by paragraph (f) or (g) of this section. The tax shall be paid in full by remittance at the time the return is rendered. The remittance shall be made in cash, by check or money order made payable to the "Internal Revenue Service", accompanying the return, or shall be delivered by electronic fund transfer to a Government depository. Where the return and remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. If the last day for filing a return under this paragraph falls on a Saturday, Sunday, or legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday or such legal holiday.

4. Sections 250.112b and 250.112c would be added to read as follows:

§ 250.112b Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 250.112, a proprietor who pays an amount of five million dollars or more in

excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on distilled spirits, wine, and beer for the succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each proprietor who paid an amount of five million dollars or more in excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The proprietor shall, for each return period, direct his bank to send an electronic fund transfer message, as provided in § 250.112c, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the third business day next succeeding the last day of the return period. The request shall take into account any time limit established by the bank. However, a proprietor who is qualified for extended deferral, as provided in § 250.112a, shall file returns and send remittances by electronic fund transfer, for each return period, not later than the last day of the next succeeding return period.

(3) If a proprietor paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided as paragraph (a) of this section or to remit the tax with the return as prescribed by § 250.112. During the first return period in which the proprietor chooses to discontinue delivering this remittance by EFT and to begin sending his remittance with the tax return to the district director, the proprietor shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 5110.52, 2927, or 2929, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittances.* (1) The proprietor shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as

his record of payment and which shall be retained as part of his records.

(2) Each proprietor shall show on the return, Form 5110.52, 2927, or 2929, required under § 250.112, information regarding EFT made for that tax period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depository for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositories and requests for such transfers, see 12 CFR Part 210, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 250.112c ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the Puerto Rican proprietors on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The proprietor shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quintuplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the Officer-in-Charge, and to the director of the service center, and the original plus one copy will be forwarded by certified or registered mail to the proprietor. The proprietor shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

§ 250.113 [Amended]

5. Section 250.113 would be amended by revising paragraph (b) to read as follows:

§ 250.113 Returns for prepayment of taxes.

* * * * *

(b) *Remittances.* Remittances submitted to cover prepayment of taxes under this subpart shall be in cash, U.S. postal money orders, certified checks, cashier's checks, or be delivered by electronic fund transfer.

* * * * *

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

1. In the table of sections to 27 CFR Part 270 §§ 270.165a and 270.165b would be added to read as follows:

* * * * *

Subpart H—Operations by Manufacturers

* * * * *

Sec.

270.165a Delivery of tax payment by electronic fund transfer.

270.165b ATF Form (Pending)—Electronic Fund Transfer Notice.

* * * * *

2. In § 270.11 the following terms would be added in alphabetical order:

§ 270.11 Meaning of terms.

* * * * *

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

* * * * *

Director of the service center. The Director, Internal Revenue Service Center, in any of the Internal Revenue regions.

* * * * *

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

* * * * *

Government depositaries. Federal Reserve banks and general depositaries. The term "general depositaries" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

* * * * *

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

* * * * *

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

* * * * *

Treasury's Account. The Treasury's Account at the Federal Reserve Bank of New York.

* * * * *

3. In § 270.162 paragraph (a) would be amended to read as follows:

§ 270.162 Semimonthly tax return.

(a) *Requirement for filing.* Every manufacturer of tobacco products shall file, for each of his factories, a semimonthly tax return on Form 3071 for each return period, including any period during which a manufacturer begins or discontinues business. Except when the tax is paid by EFT, the return shall be filed, in triplicate, with the district director of the internal revenue district in which the factory is located. When the tax is paid by EFT, the return shall be filed, in triplicate, with the director of the service center serving the factory location; and a copy shall be sent to the regional regulatory administrator. The manufacturer shall file the return at the time specified in § 270.165 regardless of whether cigars or cigarettes are removed or whether tax is due for that particular return period. However, where the manufacturer requests by letter, in duplicate, and the regional regulatory administrator grants specific authorization, the manufacturer need not during the term of such authorization file a tax return for any period for which tax is not due or payable. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director or the director of the service center.

* * * * *

4. Sections 270.165a and 270.165b would be added to read as follows:

§ 270.165a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 270.168, a manufacturer of tobacco products who pays an amount of five million dollars or more in tobacco products excise taxes for his factory during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on cigars and cigarettes for the next succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each manufacturer who paid an amount of five million dollars or more in tobacco products excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The manufacturer shall, for each return period, direct his bank to send an electronic fund transfer message as provided in § 270.165b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the close of the third business day following the last day of each return period. The request shall also take into account any time limit established by the bank. However, a manufacturer who is qualified for extended deferral, as provided in § 270.165(b), shall file returns and send remittances by electronic fund transfer, for each return period, not later than the last day of the next succeeding return period.

(3) If a manufacturer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 270.168. During the first return period in which the manufacturer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the tax return to the district director, the manufacturer shall notify the director of the service center and the regional regulatory administrator by filing an information return on Form 3071, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million

dollars and that the tax return, accompanied by remittance, shall be filed with the district director.

(c) *Remittance.* The manufacturer shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The manufacturer will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each manufacturer shall show on the return, Form 3071, required under § 270.162 information regarding EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depository for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositories and requests for such transfers, see 12 CFR Part 120, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 270.165b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the manufacturer of tobacco products on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The manufacturer shall follow the payment instructions and communicate this information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quadruplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the director of the service center and the original plus one copy will be forwarded by certified or registered mail to the manufacturer. The

manufacturer shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

5. Section 270.166 would be amended by adding to the end the following sentence to read as follows:

§ 270.166 Default, prepayment of tax required.

* * * Any remittance made during the period of a default shall be in cash, or in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or in the form of a U.S. postal money order or other money order, as defined in 26 CFR 301.6311-1 or shall be delivered in the form of an electronic fund transfer message as provided in §§ 270.165a and 270.165b.

(Aug. 16, 1954, ch. 736, 68A Stat. 707 (26 U.S.C. 5703); Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311))

6. Section 270.167 would be amended by (1) redesignating the existing text of the section as paragraph (a), (2) adding a new paragraph (b), and (3) updating the citation of authority as follows:

§ 270.167 Prepayment tax return.

(a) * * *

(b) However, if a manufacturer is required by § 270.165a to deliver payment of tax by electronic fund transfer, the manufacturer shall prepay the tax before any cigars or cigarettes can be removed for consumption or sale by completing the return and mailing it, as instructed on the return, to the director of the service center and to the regional regulatory administrator. The manufacturer shall direct his bank to effect an electronic fund transfer message.

(Sec. 202, Pub. L. 85-859, 68A Stat. 1417 (26 U.S.C. 5703); Sec. 202, Pub. L. 85-859, 72 Stat. 1423, as amended (26 U.S.C. 5741); (Aug. 16, 1954, ch. 736, 68 Stat. 775, as amended (26 U.S.C. 6302))

7. Section 270.168 would be revised to read as follows:

§ 270.168 Remittance with return.

Except when EFT has been made under § 270.165a for the full amount of tax due, the tax on cigars and cigarettes shown to be due and payable on any return shall be paid by cash, check, or money order. Checks and money orders shall be made payable to the "Internal Revenue Service".

(Aug. 16, 1954, ch. 736, 68A Stat. 707, as amended (26 U.S.C. 5703))

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

1. In the table of sections to 27 CFR Part 275 §§ 275.115a and 275.115b would be added to read as follows:

Sec.

275.115a Delivery of tax payment by electronic fund transfer.

275.115b ATF Form (Pending)—Electronic Fund Transfer Notice.

2. In § 275.11 the following terms would be added in alphabetical order:

§ 275.11 Meaning of terms.

Authorized commercial bank. A bank which maintains an account at a Federal Reserve bank and which utilizes the Federal Reserve Communications System (FRCS).

Bank. A Federal Reserve bank, an authorized commercial bank, or a nonmember clearing bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Director of the service center. The Director, Internal Revenue Service Center, in any of the Internal Revenue regions.

Electronic fund transfer or EFT. Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephone instrument, or computer or magnetic tape so as to order, instruct, or authorize a bank to transfer funds from a taxpayer's account to the Treasury's Account at the Federal Reserve Bank of New York.

Federal Reserve bank. District and Branch Banks of the Federal Reserve System.

Fiscal year. The period which begins October 1 and ends on the following September 30.

Government depositories. Federal Reserve banks and general depositories. The term "general depositories" means commercial banks which have been specifically authorized by the Treasury Department to maintain a demand account in the name of the U.S. Treasury entitled, "Treasury's General Account", for the purpose of accepting deposits for credit in that account.

Nonmember clearing bank. A bank, not a member of the Federal Reserve System, which maintains with a Federal

Reserve bank the balance referred to in the first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342), and any corporation which maintains an account with a Federal Reserve bank in conformity with the requirements of 12 CFR Part 211.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

3. Section 275.114 would be amended to read as follows:

§ 275.114 Time of filing.

(a) Every semimonthly tax return under this subpart shall be filed by the bonded manufacturer not later than the third business day succeeding the last calendar day of the return period. However, if a bonded manufacturer is qualified for extended deferral, as provided in § 275.114a, he shall file tax returns, for each return period, not later than the last day of the next succeeding return period. The tax shall be paid in full by remittance at the time the return is rendered. The remittance shall be made in cash, by check, or money order made payable to the "Internal Revenue Service", accompanying the return, or shall be delivered by electronic fund transfer to a Government depository.

(b) If the return and remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery.

(c) If the last day for filing a return under this section falls on a Saturday, Sunday, or such legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely if accomplished on the next succeeding day which is not a Saturday, Sunday, or such legal holiday.

(d) The Officer-in-Charge will transmit a receipted copy of the semimonthly tax return to the bonded manufacturer who filed the return and paid the tax, retain one copy, and forward one copy to the Regional Regulatory Administrator, New York, N.Y. 10008.

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302))

4. Section 275.115 would be amended to read as follows:

§ 275.115 Remittance with return.

Remittance of the full amount of internal revenue tax computed during the return period shall accompany the

return, except as prescribed in § 275.115a. Such remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of 26 CFR 301.6311-1 and which is acceptable to that officer. * * *

5. Sections 275.115a and 275.115b would be added to read as follows:

§ 275.115a Delivery of tax payment by electronic fund transfer.

(a) *General.* Except as provided in this section, notwithstanding any provisions of § 275.115, a bonded manufacturer of cigars or cigarettes who pays an amount of five million dollars or more in tobacco products excise taxes during a fiscal year shall use a Federal Reserve bank, authorized commercial bank, or nonmember clearing bank in making payment of the tax on tobacco products for the next succeeding fiscal year. For purposes of this section, the dollar amount of payments is defined as the net amount of taxes due and payable on returns required to be filed in the fiscal year after any authorized credits.

(b) *Requirements.* (1) On or before October 10 of each fiscal year, each bonded manufacturer who paid an amount of five million dollars or more in tobacco products excise taxes in the previous fiscal year shall notify the regional regulatory administrator, in writing, of that fact and that the remittances for the current fiscal year will be delivered by electronic fund transfer.

(2) The bonded manufacturer shall, for each return period, direct his bank to send an electronic fund transfer message, as provided in § 275.115b, to the Treasury's Account. The request shall be made to the bank early enough for the transfer to be effected to the Treasury's Account by no later than the close of the third business day succeeding the last calendar day of the return period. The request shall take into account any time limit established by the bank. However, a bonded manufacturer who is qualified for extended deferral, as provided in § 275.114a, shall file returns and send remittances by electronic fund transfer, for each return period, no later than the last day of the return period next succeeding that period.

(3) If a bonded manufacturer paid less than five million dollars by EFT in the preceding fiscal year, he may choose either to continue remitting the tax as provided in paragraph (a) of this section or to remit the tax with the return as prescribed by § 275.115. During the first return period in which the bonded manufacturer chooses to discontinue delivering his remittance by EFT and to begin sending his remittance with the

tax return, the bonded manufacturer shall notify the Officer-in-Charge and the regional regulatory administrator by filing an information return on Form 2988, showing that no taxes are due by EFT, because the amount of taxes during the preceding fiscal year was less than five million dollars and that the tax return shall be accompanied by remittance.

(c) *Remittance.* (1) The bonded manufacturer shall direct his bank to effect an electronic fund transfer message as required by paragraph (b)(2) of this section. The proprietor will be furnished, through normal banking procedures, with transfer data which will serve as his record of payment and which shall be retained as part of his records.

(2) Each bonded manufacturer shall show on the return, Form 2988, required under § 275.112, EFT made for that return period.

(3) Remittances shall be considered as made on the date the electronic fund transfer is received by a Government depository for the Treasury's Account.

(d) *Failure to request an electronic fund transfer message.* For provisions relating to the penalty for failure to request an electronic fund transfer message within the prescribed time, see the provisions of 26 U.S.C. 6656.

(e) *Extension of time for paying tax.* No extension of time will be granted for payment of any of the taxes to which the requirements in this section have application.

(f) *Other cross references.* For regulations governing the handling of any transfer of funds for the payment of tax by Government depositories and requests for such transfers, see 12 CFR Part 120, Subpart B, and 12 CFR Part 205 (Federal Reserve System regulations on transfers of funds).

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 101(j)(37), Pub. L. 91-172, 83 Stat. 530, as amended (26 U.S.C. 6161(a)(1)))

§ 275.115b ATF Form (Pending)—Electronic Fund Transfer Notice.

(a) Not later than 15 days after the beginning of a fiscal year, the regional regulatory administrator will issue payment instructions and information on ATF Form (Pending)—Electronic Fund Transfer Notice, to the bonded manufacturer on how to transmit tax payments directly or through a correspondent bank to the Federal Reserve Bank of New York. The bonded manufacturer shall follow the payment instructions and communicate this

information to the bank sending the electronic fund transfer messages.

(b) ATF Form (Pending) will be prepared in quintuplicate by the ATF regional office. A copy will be retained by the ATF regional office, a copy will be forwarded to the Officer-in-Charge, and to the director of the service center and the original plus one copy will be forwarded by certified or registered mail to the bonded manufacturer. The bonded manufacturer shall retain the original and furnish the copy to the bank sending the electronic fund transfer messages.

Signed: May 15, 1980.

G. R. Dickerson,

Director.

Approved: May 21, 1980.

Richard J. Davis,

Assistant Secretary Enforcement and Operations.

[FR Doc. 80-17189 Filed 6-3-80; 2:59 pm]

BILLING CODE 4810-31-M

27 CFR Parts 270 and 275

[Notice No. 342]

Proposed Return and Deferral Periods for Certain Tobacco Products Excise Tax Payments

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is publishing for comment proposed regulations that would change for large manufacturers of tobacco products (1) the return period for tobacco products excise tax from a semimonthly to a weekly tax return period and (2) the deferral period from the last day of the next succeeding return period to no later than three business days succeeding the last day of the weekly return period. For the purposes of this proposed regulation, a "large manufacturer of tobacco products" is defined as an individual factory for which the annual tobacco products excise tax payment is five million dollars or more.

This proposal would accelerate the collection of tobacco products excise taxes.

This proposed regulation is considered major and is supplemented with a draft regulatory analysis.

DATES: Comments must be received on or before August 5, 1980.

ADDRESS: Send comments on this proposal and requests for a copy of the draft regulatory analysis to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and

Firearms, Post Office Box 385, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

For information on the proposed regulation, contact A. N. Stickney or James A. Hunt at 202-566-7626. For information on the draft regulatory analysis, contact Cliff A. Mullen at 202-566-7531.

SUPPLEMENTARY INFORMATION:

A. Introduction

The Office of Management and Budget, Executive Office of the President, has submitted to the U.S. Congress the Budget for Fiscal Year 1981. Several cash management initiatives were proposed; and one proposal which involves the Bureau of Alcohol, Tobacco and Firearms (ATF), is the Tobacco Products Excise Tax Acceleration Project. This project would accelerate the collection of tobacco products excise taxes from large manufacturers (1) by increasing the frequency of these tax payments and (2) by reducing the deferral period.

Under the present system of collecting tobacco products excise taxes, the excise tax is paid on the basis of a semimonthly return, with the return periods running from the first through the fifteenth of the month and from the sixteenth to the end of the month. The excise taxes incurred during a return period are, in most instances, payable with the return which must be filed on or before the last day of the next succeeding return period.

B. History of Changes to the Collection of Tobacco Products Excise Tax

The present system of requiring semimonthly return with tobacco products excise tax payments due a certain number of days following the close of the return period was established in 1959. Prior to that time, manufacturers of tobacco products had to prepay their excise taxes by purchasing tax stamps. The underlying purpose of changing from a tax stamp system to a deferral system was to allow the manufacturers of tobacco products the same tax advantage as other manufacturers. In 1965, the deferral period, the time between the close of the return period and the tax payment, was extended from three days to 10 days. In 1966, the return period was extended from 10 days to the last day of the next succeeding return period.

C. Proposed Changes

Proposals recommended by the Cash Management Review Team from the Office of Management and Budget would revise the present system, for

those manufacturers of tobacco products whose annual excise tax payments is five million dollars or more, as follows:

1. The return periods would be weekly rather than semimonthly. There would be four return periods each month instead of two: From the first day through the seventh day of each month, from the eighth day through the fourteenth day of each month; from the fifteenth day through the twenty-first day of each month, and from the twenty-second day through the last day of each month.

2. The deferral period—the period between the time the return period ends and the time the tax payment is due—would be reduced to three business days. Taxes would be due no later than the third business day following the seventh, fourteenth, twenty-first, and last day of each month.

ATF proposes to implement this cash management project and estimates that approximately 20 million dollars in interest would be saved by the U.S. Government.

Another proposal by the Cash Management Review Team is to require that these excise tax payments be delivered by electronic fund transfer. This proposal is detailed in Notice No. 341 published in this *Federal Register*. Final adoption of both notices would require conforming changes to be made in certain sections amended by this notice to incorporate the electronic fund transfer provisions of Notice No. 341.

D. Compliance With Executive Order 12044

In compliance with Executive Order 12044, a draft regulatory analysis has been prepared for this notice of proposed rulemaking. The draft regulatory analysis reflects the economic consequences of the proposed amendments. This draft regulatory analysis is available upon request or may be inspected during normal business hours at—

ATF Reading Room, Room 5207, Bureau of Alcohol, Tobacco and Firearms, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

E. Public Participation

Interested persons are encouraged to participate in the proposed rulemaking process by submitting written data or views regarding the proposal. Written communications should be identified by the Notice Number (Notice No. 342) and submitted to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 385, Washington, D.C. 20044. All written

communications received on or before August 5, 1980, will be considered before action is taken on the proposed rulemaking and will be available for public inspection during normal business hours at the ATF Reading Room, Room 4406.

Any interested person desires an opportunity to comment orally at a public hearing on this proposed regulation should submit his or her request in writing to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should be held.

F. Drafting Information

The principal author of this proposed regulation is A. N. Stickney of the ATF Research and Regulations Branch. Other personnel of ATF and other agencies and offices of the Department of the Treasury, however, participated in developing the proposed regulations, both as to matters of substance and style.

G. Authority and Proposed Changes

The proposed regulations would be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917), as follows:

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

1. In the table of sections to 27 CFR Part 270 the titles of §§ 270.162—270.165 would be revised; § 270.163a would be added. Such entries would read as follows:

Subpart H—Operations by Manufacturers

Sec.

270.162 Tax return.

270.163 Semimonthly tax return periods for small manufacturers.

270.163a Weekly tax return periods for large manufacturers.

270.164 Adjustment in the tax return.

270.165 Times for filing tax returns.

2. Section 270.11 would be amended by adding definitions for "large manufacturers" and "small manufacturers". As amended, those definitions in § 270.11 would read as follows:

§ 270.11 Meaning of terms.

Large cigars. * * *

Large manufacturer. For purposes of Subpart H of this part, a manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is five million dollars or more.

Small cigars. * * *

Small manufacturer. For purposes of Subpart H of this part, a manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is under five million dollars or more.

§§ 270.141 and 270.142 [Amended]

3. In the first sentence of paragraph (b) of § 270.141, the word "semimonthly" would be amended to read "semimonthly or weekly"; and in paragraph (c) of the same section, the word "manufacturer" would be amended to read "small manufacturer". Section 270.142 would be amended by changing the word "semimonthly", wherever it appears, to read "semimonthly or weekly".

4. Section 270.162 (a) and (c) would be revised to read as follows:

§ 270.162 Tax return.

(a) *Requirement for filing.* Every manufacturer of tobacco products shall file, for each of his factories, a tax return of Form 3071, in triplicate, with the district director of the Internal Revenue District in which the factory is located, for each return period, including any period during which a manufacturer begins or discontinues business. He shall file the return at the time specified in § 270.165 regardless of whether cigars or cigarettes are removed or whether tax is due for that particular return period. However, where the manufacturer requests by letter, in duplicate, and the regional regulatory administrator grants specific authorization, the manufacturer need not during the term of such authorization file a tax return for any period for which tax is not due or payable. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director.

(c) *Deferral of tax payment.* The payment of the tax with respect to cigars and cigarettes removed subject to tax may be deferred and paid at the time prescribed in § 270.165(a) for filing the semimonthly or weekly return only if the manufacturer has on file a bond of sufficient amount executed on or after June 24, 1959, or in the case of a bond of sufficient amount executed prior to such date only if the manufacturer has filed the extension of coverage of bond prescribed in § 270.141(b). A manufacturer is entitled to the extended deferral tax payment and the filing of semimonthly tax returns provided for in § 270.165(b) only if he is a small manufacturer and has on file a bond of

sufficient amount executed on or after September 24, 1965, or in the case of a bond of sufficient amount executed prior to such date if the manufacturer has filed the extension of coverage of bond prescribed in § 270.141(b). Otherwise, the tax with respect to removals of cigars and cigarettes subject to tax shall be prepaid with the return, Form 2617, as provided in § 270.167, and the tax return under this section shall be filed showing such prepayment and the serial number(s) of the Form(s) 2617 filed during the return period.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1417 (26 U.S.C. 5703); sec. 2128(c), Pub. L. 94-455, 90 Stat. 1921 (26 U.S.C. 5741))

§ 270.163 [Amended]

5. Section 270.163 would be amended by changing (1) the title "§ 270.163 Semimonthly tax return periods" to read "§ 270.163 Semimonthly tax return periods for small manufacturers" and (2) the authority citation "(72 Stat. 1417; 26 U.S.C. 5703)" to read "(Sec. 202, Pub. L. 85-859, 72 Stat. 1417, as amended (26 U.S.C. 5703))".

6. A new § 270.163a would be added to read as follows:

§ 270.163a Weekly tax return periods for large manufacturers.

The tax return periods to be covered in the weekly tax returns shall be (a) from the first day of each month through the seventh day of each month, (b) from the eighth day of each month through the fourteenth day of each month, (c) from the fifteenth day of each month through the twenty-first day of each month, and (d) from the twenty-second day of each month through the last day of each month.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1417, as amended (26 U.S.C. 5703))

§ 270.164 [Amended]

7. Section 270.164 would be amended by changing (1) the title and in the first sentence the term "semimonthly, to read "semimonthly or weekly" and (2) the authority citation "(68A Stat. 791, 72 Stat. 1417, as amended; 26 U.S.C. 6402, 6703)" to read "(Aug. 6, 1954, ch. 756, 68A Stat. 791 (26 U.S.C. 6402); sec. 202, Pub. L. 85-859, 72 Stat. 1471, as amended (26 U.S.C. 5703))".

8. Section 270.165 (a) and (b) would be revised to read as follows:

§ 270.165 Times for filing tax returns.

(a) *General rule.*—(1) *Small manufacturer.* Tax returns on Form 3071 shall be filed not later than the third business day following the last day of each semimonthly return period prescribed in § 270.163.

(2) *Large manufacturer.* Tax returns on Form 3071 shall be filed not later than the close of the third business day following the last day of each weekly return period prescribed in § 270.163a.

(b) *Extended time for filing by small manufacturers.* A small manufacturer, whose bond was executed on or after September 24, 1965, or who has obtained the extension of coverage of bond prescribed in § 270.142(b) for extended deferral, shall file tax returns of Form 3071 not later than the last day of the next succeeding return period.

(Sec. 89(a), Pub. L. 85-866, 68A Stat. 895, as amended (26 U.S.C. 7502); Aug. 16, 1954, ch. 736, 68A Stat. 896 (26 U.S.C. 7503); Sec. 202, Pub. L. 85-859, 72 Stat. 1417 (26 U.S.C. 5703))

9. Section 270.166 would be revised to read as follows:

§ 270.166 Default; prepayment of tax required.

Where a check or money order tendered with any return, whether prepayment, weekly, or semimonthly for the payment of tax on cigars or cigarettes is not paid on presentment, where a manufacturer of tobacco products fails to remit with the return the full amount of tax due thereunder, or where a manufacturer is otherwise in default in payment of tax on cigars or cigarettes under the internal revenue laws or this chapter, during the period of such default and until the regional regulatory administrator finds that the revenue will not be jeopardized by the deferred payment of tax pursuant to the provisions of this part, no cigars or cigarettes shall be removed subject to tax until the tax thereon has first been prepaid as provided in § 270.167. Any remittance made during the period of a default shall be in cash, or in the form of a certified, cashier or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or in the form of a U.S. postal money order or other money order as defined in 26 CFR 301.6311-1.

(Aug. 16, 1954, ch. 736, 68A Stat. 707 (26 U.S.C. 5703), Aug. 16, 1954, ch. 736, 68A Stat. 777 (26 U.S.C. 6311))

§ 270.167 [Amended]

10. Section 270.167 would be amended (1) by changing the word "semimonthly", wherever it appears, to read "semimonthly or weekly"; and (2) by changing the authority citation "(72 Stat. 1417, 1423, as amended; 26 U.S.C. 5703, 5741)" to read "(Sec. 202, Pub. L. 85-859, 72 Stat. 1417, as amended, 1423 (26 U.S.C. 5703, 5741))".

§ 270.169 [Amended]

Section 270.169 would be amended by changing (1) the parenthetical phrase

"(defined at § 301.7701-12 of this chapter)" to read "(defined at 26 CFR 301.7701-12)", (2) the prepositional phrase "in § 301.6676-1 of this chapter" to read "in 26 CFR 301.6676-1"; and the authority citation "(72 Stat. 828; 26 U.S.C. 6109, 6679)" to read "(Sec. 1(a), Pub. L. 87-397, 75 Stat. 828 (26 U.S.C. 6109); sec. 20(c), Pub. L. 87-834, 76 Stat. 1062, as amended (26 U.S.C. 6679))".

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

1. In the table of sections to 27 CFR Part 275 the titles to § 275.113 and 275.114 would be amended to read as follows:

Subpart G—Puerto Rican Cigars, Cigarettes, and Cigarette Papers and Tubes, Brought Into the United States

Sec.

275.113 Tax return periods.

275.114 Times for filing tax returns.

2. Section 275.11 would be amended by adding definitions for "large bonded manufacturer" and "small bonded manufacturer". As amended, those definitions in § 275.11 would read as follows:

§ 275.11 Meaning of terms.

Large cigars. * * *

Large bonded manufacturer. For purposes of Subpart G of this part, a bonded manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is five million dollars or more.

Small cigars. * * *

Small bonded manufacturer. For purposes of Subpart G of this part, a bonded manufacturer of tobacco products whose excise tax payments by factory after any authorized credit for the preceding fiscal year is less than five million dollars.

§ 275.112 [Amended]

3. Section 275.112 would be amended by deleting the word "semimonthly", wherever it appears.

4. Section 275.113 would be revised to read as follows:

§ 275.113 Tax return periods.

(a) *Weekly return periods for large bonded manufacturers.* The periods to be covered in the weekly tax returns shall be (1) from the first day of each month through the seventh day of each month, (2) from the eighth day of each month through the fourteenth day of each month, (3) from the fifteenth day of each month through the twenty-first day of each month, and (4) from the twenty-

second day of each month through the last day of each month.

(b) *Semimonthly return period for small bonded manufacturers.* The period to be covered in the semimonthly tax returns shall be from the first day through the fifteenth day of each month, and from the sixteenth day through the last day of each month.

5. Section 275.114 would be revised to read as follows:

§ 275.114 Time for filing tax returns.

(a) *General rule.*—(1) *Small manufacturer.* Tax returns on form 2988 shall be filed not later than the third business day following the last day of each return period prescribed in § 275.113(b). However, if a small bonded manufacturer is qualified for extended deferral, as provided in § 275.114a, he shall file tax returns, for each semimonthly return period, not later than the last day of the next succeeding return period.

(2) *Large manufacturer.* Tax returns on Form 2988 shall be filed not later than the close of the third business day following the last day of each weekly return period prescribed in § 275.113(a).

(b) *Timely mailing.* If the return or remittance are delivered by U.S. mail to the office of the Officer-in-Charge, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery.

(c) *Weekends and holidays.* If the last day for filing a return under this section falls on a Saturday, Sunday, or such legal holiday in the District of Columbia or in the Commonwealth of Puerto Rico, the filing of such return and remittance shall be considered timely filed if accomplished on the next succeeding day which is not a Saturday, Sunday, or such legal holiday.

(d) *Receipt by the Officer-in-Charge.* The Officer-in-Charge will transmit a receipted copy of the tax return to the bonded manufacturer who filed the return and paid the tax, will retain one copy, and will forward one copy to the Regional Regulatory Administrator, New York, N.Y. 10008.

6. Section 275.115 would be revised to read as follows:

§ 275.115 Remittance with return.

Remittance for the full amount of internal revenue tax computed during the return period shall accompany the return. Such remittance may be in any form the Officer-in-Charge is authorized to accept under the provisions of 26 CFR 301.6311-1 and which is acceptable to that officer. In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-

half cent or more, in which case it shall be increased to one cent.

§ 275.116 [Amended]

7. Section 275.116 would be amended by changing the phrase "to remit with the semimonthly return" to read "to remit with the return".

Signed: May 15, 1980.

G. R. Dickerson,

Director.

Approved: May 21, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 80-19190 Filed 6-3-80; 2:59 pm]

BILLING CODE 4810-31-M

Test Report Federal Register

Friday
June 6, 1980

Part IV

Department of Energy

Economic Regulatory Administration

**New Electric Powerplants and Certain
New Major Fuel Burning Installations; Use
of Petroleum and Natural Gas**

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501, 502 and 507

(Docket No. ERA-R-78-19D)

New Electric Powerplants and Certain New Major Fuel Burning Installations; Use of Petroleum and Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this final rule to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), which prohibit the use of petroleum and natural gas by new electric powerplants and certain new major fuel burning installations (MFBI's). This final rule defines terms applicable to the regulatory program under the Act and establishes procedures by which owners and operators of new powerplants and certain new major fuel burning installations may petition for exemptions from the prohibitions of Title II of the Act.

EFFECTIVE DATE: This final rule shall become effective on August 5, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7002, Washington, D.C. 20461, (202) 653-3217.

Robert L. Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, (202) 653-3649.

G. Randolph Comstock (Office of the General Counsel), Department of Energy, Room 6G-087—Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION:

I. Background

II. Comments

A. Part 500—Definitions

B. Part 501—Administrative procedures and sanctions

III. Procedural matters

I. Background

ERA published proposed rules for new and existing facilities on November 17, 1978, and January 29, 1979 (43 FR 53974 and 44 FR 5808, respectively). Comments were solicited on its proposals, and public hearings were held in Boston, Massachusetts; Salt Lake City, Utah; Tampa, Florida; and Lexington, Kentucky.

On May 8, 1979, ERA issued an interim rule relating to definitions, administrative procedures and sanctions, and criteria for exemptions. Written comments were solicited by ERA over an extended period. ERA considered numerous comments in response to this solicitation. ERA also reviewed the interim rule in light of actual experience in implementing the regulatory program before issuing this final rule.

The final rule sets forth the definitions necessary for the implementation of FUA and the procedures that will apply to certain administrative proceedings implementing FUA, under Subchapter E of Title 10 of the Code of Federal Regulations.

In preparing the final rule several parts of the interim rule have been deleted or combined with other parts. Notably, the requirement for a Fuels Decision Report has been deleted. Essential requirements previously contained in Part 502 will be set out as specified evidentiary requirements relating to individual exemptions in Part 503 to be published separately. Former Parts 503 and 505 have been combined and will appear in the final rule as Part 503, New Facilities. Former Part 507, Fuel Classification and Reporting Requirements, has been deleted and is contained within Part 500, Definitions.

In preparing this final rule, considerable effort has been made to simplify, reorganize, and shorten the text compared to the interim rule, as well as to reduce the associated reporting requirements. This effort was undertaken, in part, in response to public comments which are referred to in this preamble. Other changes have been made by ERA in the interest of regulatory simplification.

II. Comments

Numerous comments and suggestions were received relating to the interim rules, and were considered by ERA in conjunction with its own review. Except in a few instances, if ERA has already addressed an issue previously in the preambles to the interim rules, ERA will not readdress the same issue here. The discussion which follows represents ERA's response to comments and

suggestions received which were not previously addressed and reflects certain changes from the interim rule made by ERA.

A. Part 500—Definitions

ERA received numerous comments concerning the definition of alternate fuel. There were suggestions that heavy crude oil be classified as an alternate fuel and automatically be excluded from the definition of petroleum. The issues raised by these comments were essentially the same as those addressed in the preamble to the interim rule (44 FR 28534, May 15, 1979), and consequently, will not be addressed again here.

Other comments addressed the issue of unmarketability of alternate fuels. Several comments suggested that classes of specific waste by-products automatically be granted alternate fuel status because they should be considered to be unmarketable or the "substantial equivalent" of an already exempt fuel, such as petroleum coke. After considering these comments in light of experience, ERA believes the issue of unmarketability of a waste by-product should continue to be examined on a case-by-case basis. ERA believes that this examination process is necessary because the marketability of a specific waste by-product will depend on the factual circumstances surrounding its production, e.g., the location of the plant where the by-product is produced, the location of potential users, the components of the by-product, the proximity of transportation systems and other factors.

ERA also received comments criticizing the inclusion of solar energy as an alternate fuel, since solar energy is not a fuel and is not explicitly included in the statutory definition of an alternate fuel. ERA disagrees with these comments. Section 103(a)(6)(A) of FUA includes "renewable energy sources" within the definition of alternate fuel. ERA believes that solar energy is a renewable energy source and is therefore an alternate fuel.

The statutory definition of alternate fuel contains two related, but somewhat overlapping terms. Waste gases from industrial operations are defined as alternate fuels, while gaseous waste by-products from industrial operations are considered alternate fuels only where they are commercially unmarketable.

ERA has concluded, as a matter of statutory interpretation, that the term "gaseous waste by-products of industrial operations" is logically contained within the broader term "waste gases from industrial

operations," all of which are deemed alternate fuels irrespective of the test of marketability. Consequently gaseous waste by-products from industrial operations need not be examined in the context of commercial unmarketability. However, liquid and solid waste by-products of industrial operations will be considered alternate fuels only where the person seeking such a classification can demonstrate that the waste by-products are commercially unmarketable.

Comments referring to the definition of applicable environmental requirements again suggested that the definition include Federal and State common law. This issue was discussed in the preamble to the interim rule (44 FR 28532, May 15, 1979) and will not be addressed again here.

Several comments suggested the addition of a definition for a "boiler." The final rule, which defines a boiler as a vessel which produces steam of a quality equal to or greater than one percent, is consistent with the comments received.

It was suggested that the definition of cogeneration be expanded to include an alternative to the cogeneration of electricity, namely mechanical energy. This issue was addressed in the preamble to the interim rule (44 FR 28966, May 17, 1979), and is not addressed again.

The interim rule contained a provision that addition of a new waste heat recovery boiler to an existing simple cycle turbine creates a new combined cycle unit. Comments criticized this approach on the basis that combined cycle units represent a more efficient use of fuel than simple cycle units and therefore should be encouraged. ERA recognizes that combined cycle units are frequently more efficient than the unit they replace. However, ERA believes that this type of construction, *i.e.*, the repowering of an existing unit, constitutes the creation of a new unit which did not previously exist and which, notwithstanding its fuel burning efficiency, will consume more fuel over a longer period of time than the unit it replaces, or than would be saved if a new alternate fuel-fired unit had been constructed in lieu of the repowering. Under the Act, new units are prohibited from using natural gas or petroleum as a primary energy source unless an exemption to do so has been granted by ERA.

Several comments raised questions concerning the language in the interim rule that small amounts of supplementary firing would not preclude the unit from being a combined cycle unit. The comments requested that ERA

specify the amount of supplementary firing that would be permitted. After considering these comments, ERA has concluded that it is not possible to set a maximum level in advance. In this final rule ERA has deleted the reference to a small amount of supplementary firing and intends to examine this issue on a case-by-case basis.

FUA at Section 103(a)(7) (A) and (C), 103(a)(10)(A), and 103(a)(18) employs the terms "design capacity" and "design capability." In the interim rule, ERA defined design capacity by using an interim rule issued by the Federal Energy Regulatory Commission (FERC) which defined powerplant design capacity for the purposes of FUA. ERA's interim rule did not separately define design capability but instead employed a reference to the FERC rule on powerplant design capacity. ERA has determined that a separate definition for design capability is necessary. ERA has also modified the definition of design capacity to reflect the final rule promulgated by FERC. The term design capacity refers to the power output rate of a unit, *i.e.*, the amount of electricity in kilowatt hours generated annually. The term design capability refers to the fuel consumption rate of a unit, *i.e.*, the fuel heat input rate measured in Btu's.

Some commenters suggested that pumps and compressors, excluded from the definition of MFBI, should be relieved of the certification requirement contained in the interim rule. The certification requirement is a statutory requirement and has not been modified. The comments also suggested that a boiler used to generate steam to operate pumps and compressors should be excluded from the definition of MFBI. ERA recognizes that the statutory exclusion for pumps and compressors is meaningful only if the boiler or other units defined by the Act as a MFBI which provide the energy to drive the pump or compressor are also excluded, and has, in the final rule, excluded from the definition of MFBI such units. In order to accord similar regulatory treatment to such units, as the rules provide with respect to units which may be aggregated for purposes of determining jurisdiction, units used to drive pumps or compressors which have a design fuel net input rate of less than 50 million Btu's per hour are not required to make this certification.

ERA received several comments regarding the status of auxiliary boilers under FUA. Some commenters felt that when such a unit was an integral part of a powerplant it should not be treated as a MFBI under the regulations. Others felt that such units should be excluded

from the definitions of both "MFBI's" and "powerplants". For purposes of the final rule, ERA believes that an auxiliary boiler is a MFBI and notes that under revisions to Part 503 several exemptions consisting primarily of a simple certification may be available for such units. In particular, ERA has provided that where a petitioner certifies such a unit will only operate 600 hours per year or less it will receive a general exemption due to the lack of an alternate fuel supply.

Many comments, as discussed below, were received on Part 507 of the interim rule with respect to the definition of natural gas and appropriate exclusions from that definition. Part 507 has been deleted and is now contained in this Part. In view of the fact that natural gas produced from tight sands has been designated by FERC as a "high-cost natural gas" since publication of the interim rule, ERA has excluded it from the definition of natural gas for the purposes of FUA if produced from wells spudded prior to January 1, 1990. However, natural gas produced from deep wells in excess of 15 thousand feet has not been excluded because such gas is presently being produced and sold commercially.

One comment recommended that the cut-off date for excluding gas produced from geopressured brine be extended from January 1, 1990, to the year 1995 or 2000. ERA has determined not to change the referenced date with respect to those high-cost gases affected, but will reexamine, prior to 1990, the related technological developments as appropriate.

In the interim rule ERA deferred a specification of criteria for determining the commercial unmarketability of natural gas pending the examination of additional technical, financial, and marketing information. Based on experience under the current regulatory structure, ERA has concluded that the criteria to be used in determining the unmarketability of waste by-products (see definitions for alternate fuels and petroleum) will also provide an appropriate means by which the unmarketability of natural gas may be determined by ERA.

Several comments were received criticizing ERA's definition of the term "produced by the user" as the term relates to natural gas produced from wells the maximum efficient production rate of which is less than 250 million Btu's per day. The commenters asserted that the gas gathering or transportation system and the percentage of the user's net working mineral interest were irrelevant considerations. ERA, after considering the comments, has

concluded that both factors are relevant to the determination of the amount of gas which may properly be excluded and thus removed from a pipeline as an alternate fuel, in view of the provisions associated with transporting fungible gaseous products over commercial gas pipeline systems. ERA believes that the user may consume all natural gas produced from such a well irrespective of his net mineral interest in the well if the natural gas could not be provided to an other consumer. However, where the natural gas is to be transported to the user by a distribution system which could also deliver it to other consumers, it is necessary to define the amount of gas the user may remove from the system as an alternate fuel. Such alternate fuel may not exceed an amount equal to the user's net working mineral interest in the well. ERA concludes that this approach furthers the statutory purposes of the Act to conserve natural gas. However, the final rule does not prevent the producer/user from demonstrating that gas produced from such a well in excess of his net mineral interest is otherwise commercially unmarketable and therefore should be excluded from the definition of natural gas.

ERA received many comments critical of the 5 percent limitation on the amount of fuel which is excluded from the definition of primary energy source for unit ignition, flame stabilization, start-up, testing, and control. Commenters urged that as much as 30 percent may be necessary for such purposes in certain situations. ERA has raised the percentage of fuel which is presumptively excluded from the definition of primary energy source to 15 percent of the unit's current year Btu input. Fuel excluded from the definition of primary energy source is not subject to the prohibitions of the Act. ERA expects units to use only the minimum amount necessary for the enumerated purposes. ERA will receive evidence which rebuts this presumption where more than 15 percent is needed and, upon a satisfactory showing, will exclude the additional amount of fuel required. However, ERA will not exclude any fuel from the definition of primary energy source where a fuels mixture exemption has been granted. The minimum percentage of petroleum or natural gas provided by a mixture exemption, needed to maintain reliability of operations consistent with maintaining a reasonable level of fuel efficiency, is in lieu of any minimum amount which would otherwise be required to accomplish unit ignition,

start-up, testing, flame stabilization, and control.

ERA also received comments suggesting that the amount of fuel excluded from the definition of primary energy source should be applied with respect to powerplants on a system-wide basis rather than on a unit-by-unit basis. ERA rejects this view since the fuel use prohibitions of the Act relate to individual powerplants.

ERA's experience in implementing the Act has led to the necessity to define the term "refinery operation", because the definition of alternate fuel excludes waste gases produced by an industrial operation from the commercial unmarketability test but does not exclude waste gases from refinery operations. The final rule provides a conservative definition to distinguish a refinery operation from an industrial operation. A refinery operation is defined as an operation which runs crude oil as its primary feedstock and engages in refining activities (separation or conversion) as those activities are commonly understood, regardless of the specific type or quantity of products produced. The accompanying definition of crude oil includes so-called heavy crude oil.

In response to comments received on the definition of reconstruction, ERA has clarified this concept and has incorporated it within the definitions of new powerplants and new MFBI's. Expenditures for equipment necessary to comply with air pollution requirements will not be counted as costs of reconstruction, nor will expenditures made before January 1, 1979. In addition, expenditures for equipment which will provide an existing unit with alternate fuel burning capability will be excluded where an available supply of alternate fuel is present in sufficient quantities to be used as a primary energy source after the unit is modified to provide such capability. For purposes of calculating costs of reconstruction, a replacement unit will be construed to be a unit of the same capacity and capable of burning the same fuels as the unit being reconstructed. ERA has retained capitalized deferred maintenance expenses as a cost of reconstruction and will employ the IRS method of determining whether or not particular items should be included. Moreover, ERA rejects the suggestion that the 50 percent test relating to capital costs of an equivalent replacement unit is too low. ERA believes that the 50 percent test will allow reasonable capital expenditures to be made without

causing an existing unit to become a new unit for purposes of the Act.

With respect to the prohibition against the construction of a new powerplant without the capability to use an alternate fuel, ERA has received comments critical of the definition of capability to use an alternate fuel. Comments criticized use of the phrase "intend to construct" on the basis that a mere intention does not constitute violation of the prohibitions of the Act. ERA agrees and has changed the language of the example pertinent to the definition accordingly.

Commenters also criticized a perceived inconsistency between the definition of capability to use alternate fuel with respect to new powerplants and criteria used to determine "technical capability to use an alternate fuel" with respect to the issuance of proposed prohibition orders to existing facilities. Specifically, the comments objected to the inclusion of required pollution control equipment in the definition of capability to use alternate fuel and the omission of such equipment in the criteria used to determine technical capability. ERA, after considering the comments, has concluded that such comments fail to recognize significant differences between Title II and Title III of the Act.

The statutory purpose of requiring new powerplants to be constructed with the capability to use alternate fuels in compliance with applicable environmental requirements recognizes one such significant difference. New construction as a practical matter would include all of the equipment needed to operate the powerplant lawfully. Operation of a new powerplant consuming an alternate fuel would be precluded by law unless pollution control equipment is in place where such equipment is necessary to comply with applicable environmental requirements. Thus, pollution control equipment has been incorporated into the definition of capability to use an alternate fuel for purposes of Title II.

For the purposes of the technical capability finding of Title III, the inquiry is limited to whether the unit is or has in the past been capable of physically burning an alternate fuel. There is no requirement that all necessary pollution control equipment be present. Such a requirement would not be relevant in determining technical capability which may have been obtained at an earlier time when pollution control equipment may not have been required. The Conference Report notes that a finding of technical capability in support of a proposed prohibition rule or order is "in essence a paper search," with a final

rule or order requiring additional, more substantial evidence. These additional findings must address technical capability in terms, not only of a physical capability, but also with respect to issues of physical modification, derating, and financial feasibility before a final rule or order may be issued.

The definition of peakload powerplant was inadvertently deleted from the interim rule. A definition is included in the final rule.

B. Part 501—Administrative Procedures and Sanctions

1. Subpart A—General Provisions. Section 501.3, Filing of Petitions, has been revised in this final rule to clarify the petition process. Specifically, several commenters expressed concern about the procedure for handling information submitted to ERA pursuant to a claim of confidentiality. Some urged that a petitioner be allowed to withdraw information where a claim of confidentiality has been denied. In response to those comments, ERA has provided that if a claim of confidentiality is denied, in whole or in part, ERA will give the person notice of the denial, no less than 7 days prior to the time the information is intended to be placed in the public file, including an opportunity to respond or take other appropriate action to avoid such release. This procedure is consistent with the confidentiality procedures contained in other DOE regulations.

Section 501.3(f) of the final rule provides that, where a petition substantially meets the requirements of § 501.3(d), but is otherwise incomplete because of minor deficiencies it will not be accepted unless its defects are cured. A period of ninety (90) days has been provided to cure the defects. After this period, the petition shall be automatically rejected unless good cause is shown for the failure to cure the incomplete petition. Many comments requested that a written explanation of defects be provided. The final rule now provides for this and indicates that such explanation will be furnished within thirty (30) days of ERA's receipt of a petition or as soon thereafter as practicable.

It was suggested that ERA establish procedures to deal with the issue of commercial unmarketability, as it pertains to exclusions from the definitions of alternate fuel, natural gas and petroleum. ERA recognizes the difficulties petitioners face with respect to this issue and is prepared to respond to requests for guidance or clarification concerning commercial unmarketability. Such requests should be addressed to

the Office of Fuels Conversion at the address given.

2. Subpart B—Filing Fees. A substantial number of comments were received objecting to ERA's filing fee schedule, as being excessive and not corresponding to ERA's actual costs of processing exemption petitions. Although ERA remains convinced that it has authority to charge fees for certain activities, as discussed in the preamble to the interim rule, (44 FR 28536, May 15, 1979), it has decided not to exercise this authority for the time being.

3. Subpart C—Written Comments, Conferences, and Public Hearings. Several commenters requested that ERA revise its interim rule to provide for adjudicatory hearings. Other commenters recommended that ERA's decision be based only upon evidence which has been subjected to public scrutiny and to which all participants have had an opportunity to offer rebuttal evidence. These and other related issues were discussed in detail in the preamble to the interim rule (44 FR 28536, May 15, 1980). ERA has not been convinced that any substantial changes are necessary with respect to these matters but has provided that information submitted for the record after any public hearing is concluded will be disseminated to all parties on the service list maintained by the presiding officer at the hearing.

Several commenters argue that questions for witnesses should be posed directly, rather than through the presiding officer. In response to this comment, ERA notes that § 501.34 permits the presiding officer to allow direct questioning of witnesses. No additional changes are deemed necessary.

4. Subpart F—Exemptions. ERA has revised and clarified procedures for filing an exemption petition. The necessary elements for eligibility for an exemption for a new powerplant or new major fuel burning installation appear in Part 503. Former Part 502, Fuels Decision Report, has been deleted. Appropriate procedural requirements of Part 502 have been adopted in this Part, and essential evidentiary requirements for each exemption have been placed in Part 503.

It was requested that ERA publish tentative staff determinations based on the belief that many purely technical, as well as legal and policy, errors could be avoided with the publication of such determinations with an accompanying right of comment by the petitioner and other parties. ERA will publish a Notice of Availability of Tentative Staff Analysis for all petitions and will provide interested persons at least

fourteen (14) days to comment and request a hearing.

The final rule has been revised to give public notice of any redesignation of an exemption petition at least thirty (30) days (instead of three (3) weeks) prior to the public hearing.

It was suggested that the final rule be amended to provide that once a petition for exemption is accepted, no action will be taken against the petitioner while such petition is pending. ERA has not adopted this procedure since the Act provides for exemptions as the sole means of avoiding the prohibitions of the Act. Furthermore, ERA believes that such a procedure would tend to encourage the filing of frivolous petitions. Indeed, it is incumbent upon ERA to enforce the provisions of the Act in all cases where those provisions are not being observed, notwithstanding the fact that a petition for an exemption may be pending.

5. Subpart G—Requests for Modification or Rescission of a Rule or Order. ERA rejects the suggestion that petitioners for modification or rescission of a rule or order should be provided the opportunity to request and obtain a public hearing on their request, with full opportunity to respond to questions. The final rule makes clear that ERA retains the discretion to permit a public hearing where such a hearing will advance its evaluation of the request. The text of this subpart has been clarified to make clear that requests for modification or rescission of an order granting an exemption are permitted.

6. Subpart K—Enforcement. Some commenters pointed out that under FUA there is no authority to revoke an exemption by a remedial order. In the final rule ERA has redesignated a remedial order as a Fuel Use Order. ERA believes that the statutory authority to grant an exemption includes the inherent power to revoke such an exemption. In ERA's view, the power to revoke an exemption is also implicit in the authority to attach terms and conditions to the grant of an exemption under either Section 214 or 314 of FUA. ERA does, however, agree with the argument that certain other sanctions (e.g., injunctive relief) absent appropriate action by a District Court of the United States pursuant to Title VII of the Act would not be authorized. Accordingly, the second sentence of § 501.167(a) of the interim rule has been deleted.

Interim rule §§ 501.161(a), 163, and 164 refer to ERA's discretion to require written verification of oral complaints, to make public the complaint and identify the complainant, and to provide a draft of the notice of violation to the

affected person. It has been suggested that these provisions be made mandatory and that ERA be required to keep a daily log of each complaint. Violation of the provisions of FUA has serious consequences, possibly resulting in the imposition of both civil and criminal penalties. It is believed that the discretionary provisions contained in Subpart K of the final rule strike a proper balance between the desire to encourage the filing of legitimate complaints and the need to protect against unfair and unsupported allegations; in short, to insure the integrity of the enforcement proceeding. The public interest in effective enforcement of FUA is best served, it is felt, by a procedure which gives ERA flexibility in weighing these and other competing interests, both public and private. The thrust of these provisions, moreover, is consistent with the privacy and confidentiality provisions of the Freedom of Information Act, 5 U.S.C. 552(b)(4)(7)(C) and 7(d).

Section 501.166 has been changed so as to provide an opportunity to request a conference in cases where civil penalties have not been proposed. This addition merely restores the substance of § 501.172 of the proposed rules which was inadvertently omitted when the interim rules were adopted.

7. *Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes.* In response to a number of comments received by ERA concerning Subpart M of the interim rule, ERA has made a number of revisions. Through inadvertent error, reference to Titles IV and V was omitted from § 501.190 of the interim rule, pertaining to purpose and scope of Subpart M. This section has been revised accordingly.

Several commenters suggested that § 501.191 of the interim rule should be modified to allow the use of petroleum or natural gas to prevent as well as alleviate an unanticipated equipment outage. ERA has reexamined Section 103(a)(15)(B) of FUA, which authorizes use of minimum amounts of oil and gas to prevent or alleviate unanticipated equipment outages, and has revised § 501.191 accordingly to allow the use of petroleum or natural gas to prevent as well as alleviate unanticipated equipment outages.

ERA has reduced the reporting requirement contained in § 501.191(b)(3). The final rule requires the operator of a powerplant or major fuel burning installation who is using natural gas or petroleum to alleviate or prevent an emergency or unanticipated equipment outage to file a status report with ERA

every thirty (30) days after commencement of such use.

Several commenters contended that § 501.192(c) of the interim rule, which permits the burning of gas or oil for only a period of 4 weeks from the commencement of an emergency condition (pursuant to Section 404(g) of FUA) was insufficient for many emergency situations. Therefore, ERA has revised § 501.192(c) to automatically permit use of natural gas or petroleum until termination of the emergency condition, provided such period does not exceed 24 months.

III. Procedural matters

A Final Environmental Impact Statement (FEIS) was prepared pursuant to the National Environmental Policy Act (NEPA). The FEIS may be obtained from ERA, 2000 M Street, N.W., Room B110, Washington, D.C. 20461, (202) 653-4055.

Under Executive Order No. 12044 and Department of Energy Implementing Order 2030.1, a final regulatory analysis shall be made available to the public at the time that final rules are adopted, unless a waiver has been issued by the Secretary or Deputy Secretary. The Deputy Secretary has granted such a waiver.

A final regulatory analysis relating to this final rule will be made available shortly in conjunction with a draft regulatory analysis to accompany a Notice of Proposed Rulemaking on the cost calculation.

This final rule must be submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collection provisions of this final rule may require revision or additions as a result of any OMB action.

(Department of Energy Organization Act, Pub. L. 95-96; Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 500 and 501, as amended, of Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, titled "Alternate Fuels," are hereby adopted as a final rule and are effective on August 5, 1980. Regulations formerly appearing in Parts 502 and 507 are hereby revoked effective as of the above date.

Issued in Washington, D.C., May 30, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

10 CFR Chapter II is amended as set forth below.

1. Part 500 is revised to read as follows:

SUBCHAPTER E—ALTERNATE FUELS

PART 500—DEFINITIONS

Sec.

- 500.1 Purpose and scope.
- 500.2 General definitions.
- 500.3 Electric regions—electric region groupings for reliability measurements under the Powerplant and Industrial Fuel Use Act of 1978.
- 500.4 Criteria for determining if an electric generating unit is jurisdictional.
- 500.5 Criteria for determining if an industrial unit is jurisdictional.

Authority: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267, September 15, 1977.

§ 500.1 Purpose and scope.

Unless otherwise expressly provided or the context clearly indicates otherwise, this section defines the terms used in these regulations. The use of the male gender is to include female; the use of singular to include plural.

§ 500.2 General definitions.

For purposes of this Part and Parts 501-518 the term(s):

"Act" means "FUA".

"Action" means a prohibition, by rule or order, in accordance with sections 202, 301 (b) and (c), 302 (a) and (b), 401, 402 and 405 of FUA; an order granting or denying an exemption in accordance with sections 211, 212, 311, and 312 of FUA; a modification or rescission of any such order, or rule; an interpretation; a notice of violation; a remedial order; an interpretive ruling; or a rulemaking, undertaken by DOE.

"Affiliate", when used in relation to person, means another person who controls, is controlled by, or is under common control, with such person.

"Aggrieved", for purposes of administrative proceedings, describes and means a person (with an interest sought to be protected under FUA) who is adversely affected by an action proposed or undertaken by DOE.

"Air pollution control agency" means any of the following:

(1) A single State agency designated as the official State air pollution control agency;

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

(3) A city, county, or other local government health authority or, in the case of any city, county, or other local unit of government in which there is an agency other than the health authority

charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution;

"Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes, but is not limited to:

(1) Coal;
(2) Solar energy;
(3) Petroleum coke; shale oil; uranium; biomass; municipal, industrial, or agricultural wastes; wood; and renewable and geothermal energy sources (For purposes of this subparagraph (3), the term "industrial" does not include refineries.);

(4) Liquid, solid, or gaseous waste by-products of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity. (For purposes of this subparagraph (4), the term "waste by-product" is defined as an unavoidable by-product of the industrial or refinery operation.)

(i) A waste by-product of a refinery operation is commercially unmarketable if it meets the criteria listed in the definition of petroleum set forth below.

(ii) A waste by-product of an industrial operation is commercially unmarketable either by reason of:

(A) Quality, where the cost of processing (limited to upgrading the product to commercial quality), storing, and distributing the by-product would not be covered by reasonably expected revenues from its sale; or

(B) Quantity, where the cost of aggregating the by-product into commercial quantities through storing and distributing the by-product would not be covered by reasonably expected revenues from its sale.

(5) Any fuel derived from an alternate fuel; and

(6) Waste gases from industrial operations. (For purposes of this subsection, the term "industrial" does not include refineries.)

"Applicable environmental requirements" includes:

(1) Any standard, limitation, or other requirement established by or pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels, natural gas, or petroleum as a primary

energy source or from the operation of pollution control equipment in connection with such use, taking into account any variance of law granted or issued in accordance with Federal law or in accordance with State law to the extent consistent with Federal law; and

(2) Any other standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, the Resource Conservation and Recovery Act of 1976, or the National Environmental Policy Act of 1969.

"Base load powerplant" means a powerplant, the electrical generation of which in kilowatt hours exceeds, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Boiler" means a closed vessel in which water is heated or vaporized to produce steam of one (1) percent or more quality.

"Btu" means British thermal unit.

"Capability to use alternate fuel", for the purpose of the Title II prohibition relating to construction of new powerplants, means the powerplant to be constructed must be able to use, in compliance with applicable environmental requirements, an alternate fuel as a primary energy source on a continuous basis at the time it becomes operational or at the expiration of a temporary exemption. This alternate fuel must be available to the operator at the powerplant site at the time it becomes operational or at the expiration of a temporary exemption. Examples:

(1) High-Btu gas from coal is an alternate fuel within FUA. If a petitioner proposes to construct a new powerplant that is to use natural gas, he cannot assert, for purposes of the prohibition on construction of new powerplants without alternate fuel capability, that the powerplant is capable of using high-Btu gas from coal as a primary energy source unless this gas will be available to the powerplant in sufficient quantities to be a primary energy source at the time of initial operation or upon expiration of a temporary exemption.

(2) A petitioner who proposes to construct a new powerplant that will have a boiler capable of using either coal or oil, would be in violation of the prohibition on construction relating new powerplants without alternate fuel capability, absent an exemption, unless the powerplant is constructed with coal handling, pollution control, and ash removal systems and other equipment necessary to burn coal so in compliance with applicable environmental requirements or standards.

"Clean Air Act" means the Clean Air Act, 42 U.S.C. 7401 *et seq.* (1970), as amended by Pub. L. 93-319, 88 Stat. 246, and Pub. L. 95-91, 91 Stat. 685.

"Coal" means anthracite, bituminous and sub-bituminous coal, lignite, and any fuel derivative thereof.

"Cogeneration facility" means an electric powerplant or a major fuel burning installation that produces:

(1) Electric power; and
(2) Any other form of useful energy (such as steam, gas, or heat) that is, or will be, used for industrial, commercial, or space heating purposes. In addition, for purposes of this definition, electricity generated by the cogeneration facility must constitute more than ten (10) percent and less than ninety (90) percent of the useful energy output of the facility.

"Combined cycle unit" means a unit that consists of a combination of one or more combustion turbine units and one or more waste heat boilers with a substantial portion of the required energy input to the waste heat boiler provided by the exhaust gas from the combustion turbine unit(s).

"Conference" means an informal meeting, incident to any proceeding, between DOE and any interested person.

"Combustion turbine" means a unit that is a rotary engine driven by a gas under pressure that is created by the combustion of any fuel.

"Construction" means substantial physical activity at the unit site and includes more than clearance of a site or installation of foundation pilings. The addition of a waste heat recovery or supplemental-fired boiler to an existing combustion turbine constitutes construction of a new combined cycle unit. The addition of a combustion turbine, as a heat source for an existing boiler, also constitutes construction of a new combined cycle unit.

"Cost of petroleum or natural gas" means the cost of imported oil as computed in § 503.6(d)(2) of these regulations.

"Costs" means total costs, both operating and capital, incurred over the estimated remaining useful life of an electric powerplant or major fuel burning installation, discontinued to the present pursuant to rules established in Parts 503 and 504 of these regulations.

"DEOA" means the Department of Energy Organization Act (Pub. L. 95-91) (42 U.S.C. 7101 *et seq.*), as implemented by Executive Order 12009 (42 FR 46267, September 15, 1977).

"Design capability" shall be determined as follows:

(1) For a powerplant defined in Section 103(a)(7) of FUA:

(i) *Boiler and associated generator turbines.* The design fuel heat input rate of a steam-electric generating unit (Btu/hr) shall be the product of the generator's nameplate rating, measured in kilowatts, and 3412 (Btu/kWh), divided by the overall boiler-turbine-generator unit design efficiency (decimal); or if the generator's nameplate does not have a rating measured in kilowatts, the product of the generator's kilovolt-amperes nameplate rating, and the power factor nameplate rating, and 3412 (Btu/kWh), divided by the boiler turbine-generator unit's design efficiency (decimal). (The number 3412 converts kilowatt-hours (absolute) into Btu's (mean).)

(ii) *Combustion turbine and associated generator.* The design fuel heat input rate of a combustion turbine (Btu/hr) shall be the product of its nameplate rating, measured in kilowatts, and 3412 (Btu/kWh), divided by the combustion turbine-generator unit's design efficiency (decimal), adjusted for peaking service at an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and at the unit's elevation. (The number 3412 converts kilowatt-hours (absolute) into Btu's (mean).)

(iii) *Combined cycle unit.* The design fuel heat input rate of a combined cycle unit (Btu/hr) shall be the summation of the product of its generator's nameplate rating, measured in kilowatts, and 3412 (Btu/kWh), divided by the overall combustion turbine-generator unit's efficiency (decimal), adjusted for peaking service at an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and at the unit's elevation, plus the product of the maximum fuel heat input to any supplemental heat recovery steam generator/boiler in gallons or pounds per hour and the fuel's heat content. If the generator's nameplate does not have a rating measured in kilowatts, the product of the generator's kilowatt-amperes nameplate rating and power factor nameplate rating must be substituted for kilowatts. (The number 3412 converts kilowatt-hours (absolute) into Btu's (mean).)

(2) For a major fuel burning installation, defined in Section 103(a)(10) of FUA, the fuel heat input rate of a boiler (Btu/hr) shall not be less than the safety valve relieving capacity (lbs/hr) multiplied by the enthalpy difference (Btu/lb) of feedwater input and steam output, divided by the boiler design efficiency (decimal) for the fuel. For the purpose of this definition, the safety valve capacity shall be determined in accordance with the

current American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

"Design capacity" of a powerplant, pursuant to Section 103(a)(18) of FUA, is determined according to 18 CFR 287.101.

Note.—Section 287.101 of Title 18 CFR as issued by the Federal Energy Regulatory Commission (44 FR 38837, July 3, 1979) and as referenced in the definition of "design capacity" is republished in part in the appendix below for the benefit of the public. This appendix will not appear in the CFR.

Appendix

"287.101 Determination of powerplant design capacity.

For the purpose of Section 103 of the Powerplant and Industrial Fuel Use Act of 1978; a powerplant's design capacity shall be determined as follows:

(a) *Steam-electric generating unit.* The design capacity of a steam-electric generating unit shall be the maximum generator nameplate rating measured in kilowatts or, if the nameplate does not have a rating measured in kilowatts, the product of the generator's kilovolt-amperes nameplate rating and power factor nameplate rating.

(b) *Combustion turbine.* The design capacity of a combustion turbine shall be its nameplate rating measured in kilowatts, adjusted for peaking service at an ambient temperature of 59 degrees Fahrenheit (15 degrees Celsius) and at the unit's site elevation.

(c) *Combined cycle unit.* The design capacity of a combined cycle unit shall be the sum of its combustion turbine nameplate rating measured in kilowatts, based on baseload operation adjusted for site elevation, and the maximum generator nameplate rating measured in kilowatts of the steam turbine portion of the unit * * *

"DOE" or "the Department" means the United States Department of Energy, as defined in Sections 201 and 301(a) of the DEOA, including the Secretary of Energy or his designee.

"Duly authorized representative" means a person who is authorized to appear before DOE in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may include the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, oral communication, or any other participation in a proceeding.

"Electric generating unit" does not include:

(1) Any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission (NRC); and

(2) Any cogeneration facility from which less than half of the annual electric power generation is sold or exchanged for resale.

Note.—For purposes of subparagraph (1) of this definition, ERA will not consider any unit located at a site subject to NRC's licensing authority to be jurisdictional for purposes of FUA.

"Electric powerplant" means any stationary electric generating unit, consisting of (a) a boiler, (b) a gas turbine, or (c) a combined cycle unit which employs a generator to produce electric power for purposes of sale or exchange and:

(1) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(2) Is in a combination of two or more electric generating units that are located at the same site and that in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Note.—(i) To determine if an electric generating unit is to be aggregated toward the 250 million Btu's per hour threshold for purposes of subparagraph (2), see § 500.4 of this part.

(ii) To determine if electric generating units, for purposes of paragraph (2) of this definition, are located at the same site, ERA will consider physical proximity, common ownership or control, and whether noncontiguous parcels are connected by any easements, pipes, or steam lines under common ownership. All powerplants located at the same site will be considered in combination.

(3) ERA will not aggregate toward the 250 million Btu's per hour threshold any rental boiler being used because of and in compliance with an unanticipated equipment outage, emergency, or temporary emergency condition as described in Subpart M of these regulations.

"Electric Region" is as defined in § 500.3 of this part.

"Electric utility" means any person, including any affiliate, or Federal agency, which sells electric power.

"Emission offset" means emission reductions as defined by EPA's regulations set forth at 40 CFR Part 51, Appendix 5.

"ERA" means the United States Environmental Protection Agency.

"EPA" means the Economic Regulatory Administration of DOE.

"Existing powerplant" means any powerplant other than a new powerplant.

"Existing major fuel burning installation" means any installation which is not a new major fuel burning installation.

"Federal Water Pollution Control Act" means 33 U.S.C. 1251 *et seq.*, as amended.

"FERC" means the Federal Energy Regulatory Commission.

"Firm" means a parent company and the consolidated or unconsolidated entities (if any) that it directly or indirectly controls.

"Fluidized bed combustion" means combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, that is held in a fluid-like state by the means of air or other gases being passed through such materials.

"FTC" means the Federal Trade Commission.

"FUA" means the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*

"Fuel Use Act" means "FUA".

"Fuel Use order" means a directive issued by ERA pursuant to § 501.167 of these regulations.

"Gas turbine" means "combustion turbine".

"General use exemption" means a permanent exemption due to lack of alternate fuel supply, site limitations, environmental requirements, lack of adequate capital, or State or local requirements under Section 212 (a) and (b) of FUA.

"High-priority user," for purposes of Subsection 312(j) of FUA, means any residential user of natural gas, or any commercial user whose consumption of natural gas on peak day is less than 50 Mcf.

"Installation" means "major fuel burning installation."

"Intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

"Internal combustion engine" means a heat engine in which the combustion that generates the heat takes place inside the engine proper.

"Interpretation" means a written statement issued by the DOE General Counsel or his delegate, in response to a written request, that applies the regulations, rulings, and other precedents previously issued by the DOE to the particular facts of a prospective or completed act or transaction.

"Limited Use Exemption" means a permanent exemption due to lack of alternate fuel supply for installations where the use of the unit will not exceed 600 hours per year, fuel mixtures of less than 25% of the total annual Btu heat input of the primary energy source of installations, peakload powerplants, emergency purposes, and scheduled outages of less than 28 days per year, under Section 212 of FUA.

"Major fuel burning installation" (1) means a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine that:

(i) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) Is in a combination of two or more such units that are located at the same site and that in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

Note.—(A) To determine if a MFBI is to be aggregated toward the 250 million Btu's per hour threshold for purposes of clause (1)(ii) of this definition, see § 500.5 of this part.

(B) To determine if units, for purposes of clause (1)(ii) of this definition, are located at the same site, ERA will consider physical proximity, common ownership, and whether non-contiguous parcels are connected by any easements, pipes, or steam lines under common ownership.

(C) For purposes of clause (1)(ii) of this definition, the term "in a combination" means functionally integrated. In determining if such units are functionally integrated, ERA will consider the following factors:

(1) Whether the units are contributing to the same end product, blend stock, or intermediate product;

(2) Whether the units are part of the same plant or facility producing different products;

(3) Whether the units have a physical connection with common energy or power systems, other than provided by a public utility; and

(4) Any other factors which would indicate that the units are functionally integrated.

(iii) ERA will not aggregate toward the 250 million Btu's per hour threshold any rental boiler if it is being used because of and in compliance with an unanticipated equipment outage, emergency, or temporary emergency condition as described in Subpart M of these regulations.

(2) Does not include:

(i) Any electric powerplant;

(ii) Any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only upon the filing of a written certification of such use with ERA in accordance with procedures specified in §§ 501.7 and 501.11 of the regulations. Such certification must be made only for such pumps and compressors which are driven by units with a design fuel heat input rate of 50 million Btu's per hour or greater and which consume petroleum or natural gas. The following information is required:

(A) Unit size in Btu input;

(B) Equipment function; and

(C) Geographic location of the unit; or

(iii) Steam generators used for crude oil recovery.

Note.—For purposes of clause (2)(ii), also excluded from jurisdiction under the Act is any boiler, combustion turbine, combined cycle unit, or internal combustion engine used to drive pumps and compressors for such purposes, if ninety (90) percent or more of the energy output is used to drive the pumps and compressors.

"Mcf" means 1,000 cubic feet of natural gas.

"MFBI" means a "major fuel burning installation".

"Mixture," when used in relation to fuels used in a unit, means a mixture of petroleum or natural gas and an alternate fuel, or a combination of such fuels, used simultaneously or alternately in such unit.

"Natural gas" means any fuel consisting in whole or in part of natural gas, including components of natural gas such as methane and ethane; liquid petroleum gas; synthetic gas derived from petroleum or natural gas liquids; or any mixture of natural gas and synthetic gas. Natural gas does not include:

(1) Gaseous waste by-products or waste gas specifically designated as an alternate fuel in § 500.2 of these regulations;

(2) Natural gas which is commercially unmarketable by reason of:

(i) Quality, where the cost of producing, upgrading to commercial quality, storing, and distributing the gas would not be covered by reasonably expected revenues from its sale; or

(ii) Quantity, where the quantities of natural gas are so small that the revenues to be reasonably expected from the sale of the gas would not cover the cost of its production, distribution, or storage.

(3) Natural gas produced by the user from a well, the maximum efficient production rate of which is less than 250 million Btu's per day.

For purposes of clause (3) of this definition:

(i) "produced by the user" means:

(A) All gas produced by the well, when such gas is delivered for use in the user's facility through a gas delivery, gathering, or transportation system which could not deliver such gas to any other user; or

(B) Only that amount which represents the user's net working (mineral) interest in the gas produced from such well, where such gas is delivered for use in the user's facility through a gas delivery, gathering, or transportation system which could deliver such gas to any other user.

(ii) "Maximum efficient production rate" (MEPR) means that rate at which production of natural gas and oil may be

sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of oil or gas through the well. The MEPR must include the Btu value of any crude oil, gas condensate, and natural gas liquids which may be produced from the well, in addition to that of the natural gas.

(4) Occluded methane in coal seams with the meaning of Section 107(c)(3) of the Natural Gas Policy Act of 1978 (NGPA);

(5) The following gas from wells spudded prior to January 1, 1990:

(i) Gas produced from geopressured brine within the meaning of Section 107(c)(2) of the NGPA;

(ii) Gas produced from Devonian shale, within the meaning of Section 107(c)(4) of the NGPA;

(iii) Gas produced from tight sands, as designated by the FERC in accordance with Section 107(c)(5) of the NGPA; and

(iv) Other gases designated by FERC as "high-cost natural gas" in accordance with Section 107(c)(5) of the NGPA, except as specifically designated as "natural gas" by ERA.

(6) Synthetic gas derived from coal or other alternate fuel, the heat content of which is less than 600 Btu's per cubic foot at 14.73 pounds per square inch (absolute) and 60 degrees Fahrenheit.

(7) Mixtures of natural gas and synthetic gas derived from alternate fuels for which the person proposing to use the gas certifies to ERA that:

(i) He owns, or is entitled to receive at the point of manufacture, synthetic gas derived from alternate fuels;

(ii) He delivers, or arranges for the delivery of such, synthetic gas to a pipeline which by transport or displacement is capable of delivering such synthetic gas, mixed with natural gas, to facilities owned by the user;

(iii) The total annual Btu content of the synthetic gas delivered to a pipeline is equal to or greater than the total annual Btu content of the natural gas delivered to the facilities owned by the user, plus the approximate total annual Btu content of any natural gas consumed or lost in transportation; and

(iv) All necessary permits, licenses, or approvals from appropriate Federal, state, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under Section 201 (2) of FUA against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such synthetic gas facilities shall be

required, under this subparagraph, to be certified and documented.

(8) A mixture of natural gas and an alternate fuel when such mixture is deliberately created for purposes of (i) complying with a prohibition order issued pursuant to Section 301(c) of the Act, or (ii) qualifying for a fuel mixtures exemption under this Act, provided such exemption is granted.

"NEPA" means the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

"New electric powerplant" means any electric powerplant: (1) That was not classified as existing under Part 515 of this subchapter; (2) that was reconstructed; as described below; or (3) for which construction was begun after November 9, 1978.

Note.—Reconstruction of an electric powerplant occurs when the capital expenditures for refurbishment or modification of the unit, as defined by FERC, on a cumulative basis for the current calendar year and preceding two (2) calendar years beginning January 1, 1979, are equal to or greater than fifty (50) percent of the capital costs of an equivalent replacement unit of the same capacity, capable of burning the same fuels. Reconstruction shall not include expenditures for: (1) Routine operation and maintenance; (2) expenditures made for pollution control equipment; (3) expenditures made for providing the capability to use an available alternate fuel; and (4) expenses related directly to movement of the unit. In addition, reconstruction will not be deemed to have occurred where refurbishment or modification of the unit does not result in increased remaining useful life, or an increase in total annual fuel consumption, but is undertaken solely for the purpose of increasing fuel burning efficiency of the unit. Costs of reconstruction shall include only expenditures for items capitalized (*i.e.*, not expensed) according to the FERC Uniform System of Accounts.

"New major fuel burning installation" means any MFBI: (1) That was not classified as existing under Part 515 of this subchapter; (2) that was reconstructed, as described below; or (3) for which construction begun after November 9, 1978.

Note.—Reconstruction of a MFBI occurs when capital expenditures for refurbishment or modification of the unit on a cumulative basis for the current calendar year and preceding two calendar years, beginning January 1, 1979, are equal to or greater than fifty (50) percent of the expenditures for an equivalent replacement unit of the same capacity, capable of burning the same fuels. Reconstruction shall not include expenditures for routine operation and maintenance expenditures made for pollution control equipment, expenditures made for providing the capability to use an alternate fuel, and expenses related directly to movement of the unit. Costs of reconstruction shall include only expenditures for items capitalized (*i.e.*,

not expensed) according to Internal Revenue Service standards. In addition, reconstruction will not be deemed to have occurred where refurbishment or modification of the unit does not result in increased remaining useful life, or an increase in total annual fuel consumption, but is undertaken solely for the purpose of increasing fuel burning efficiency of the unit.

"NGPA" means the Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*

"Non-boiler" means any powerplant or MFBI which is not a boiler and consists of either a combustion turbine unit, combined cycle unit, or, in the case of an MFBI, an internal combustion engine.

"Notice of violation" means a written statement issued to a person by DOE that states one or more alleged violations of the provisions of these regulations, any order issued pursuant thereto, or the Act.

"Offset" means "emission offset".

"Order" means a final disposition, other than the issuance of a rule, issued by DOE pursuant to these regulations or the Act.

"Peakload powerplant" means a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1,500 hours.

"Person" means any:

(1) Individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company;

(2) Any State;

(3) Any Federal, State, or local agency or instrumentality (including any municipality) thereof; or

(4) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

"Petroleum" means crude oil and products derived from crude oil, other than:

(1) Petroleum products specifically designated as alternate fuels pursuant to these regulations;

(2) Synthetic gas derived from crude oil;

(3) Liquid petroleum gas;

(4) Petroleum coke or waste gases from industrial operations; and

(5) A liquid, solid, or gaseous waste by-product of refinery operations which is commercially unmarketable by reason of:

(i) Quality, where the cost of processing (limited to upgrading the product to commercial quality), storing, and distributing the by-product would not be covered by reasonably expected revenues from its sale; or

(ii) Quantity, where the cost of aggregating the product into commercial

quantities through storage and distributing the by-product would not be covered by reasonably expected revenues from its sale.

Note.—For the purposes of this subparagraph, waste by-products do not include components (such as butane and propane) that can be extracted from the waste by-product by reasonable further processing of the waste by-product at the refinery, nor do they include final products that use the waste by-product as a blend stock at the refinery.

"Petition" means a formal request for any action including an exemption submitted to DOE under these regulations.

"Powerplant" means "electric powerplant."

"Product or process requirements" means that product or process for which the use of an alternate fuel is not technically feasible due to the necessity to maintain satisfactory control of product quality and for which the substitution of steam is not technically feasible due to process requirements.

"Primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel burning installation, except:

(1) Minimum amounts of fuel, not to exceed fifteen (15) percent, unless otherwise demonstrated, of the total annual Btu heat input of the unit, required for unit ignition, startup, testing, flame stabilization, and control uses; and

(2) Minimum amounts of fuel required to alleviate or prevent:

(i) Unanticipated equipment outages as defined in § 501.191 of these regulations; and

(ii) Emergencies directly affecting the public health, safety, or welfare that would result from electric power outages as defined in § 501.191.

Note.—For purposes of subparagraph (1), no fuel will be excluded from the definition of primary energy source where a mixture exemption has been granted under Parts 503 or 504 of these regulations. The minimum amount of natural gas or petroleum provided by a mixture exemption to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency is in lieu of the minimum amount required for unit ignition, start-up, testing, flame stabilization, and control uses.

"Prohibition order" means:

(1) An order issued pursuant to Sections 202(b), 301(b) and (c), 302(a) and (b), and 401 of the Act that prohibits a powerplant or major fuel burning installation or a boiler used for space heating purposes from burning natural gas or petroleum as its primary energy source; or

(2) An order issued pursuant to Sections 301(c) and 302(b) of the Act that prohibits excessive use of natural gas or petroleum in mixtures burned by a powerplant or major fuel burning installation as its primary energy source.

"Refinery operation," as the term is used in these regulations, means an operation which separates or converts crude oil as its primary feedstock into unfinished, semi-refined, or refined products. For the purposes of this definition, the term, "crude oil" means a mixture of hydrocarbons, including lease condensate, which exists in a liquid state or as an amorphous solid in underground reservoirs.

"Resource Conservation and Recovery Act of 1976" means the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*

"SIP" means State Implementation Plan pursuant to Section 10 of the Clean Air Act.

"Site limitation," when used with respect to any powerplant or installation, means a specific physical limitation associated with a particular site that relates to the use of an alternate fuel as a primary energy source for the powerplant or installation, such as:

(1) Inaccessibility to alternate fuels;

(2) Lack of transportation facilities for alternate fuels;

(3) Lack of adequate land or facilities for the handling, use, and storage of alternate fuels;

(4) Lack of adequate land or facilities for the control or disposal of wastes from such powerplant or installation, including lack of land for pollution control equipment or devices necessary to assure compliance with applicable environmental requirements; and

(5) Lack of an adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements.

"Solid Waste Disposal Act" means 42 U.S.C. 6901 *et seq.*, as amended.

"Specified Use Exemption" means a permanent exemption for cogeneration, fuel mixtures, emergency purposes, reliability of source, peakload powerplants, intermediate load powerplants, product or process requirements, or scheduled equipment outages under Section 212 (c) through (j) of FUA.

"State regulatory authority" means any State agency that acts as ratemaking or power supply authority with respect to the sale of electricity by any State regulated electric utility.

"Synthetic fuel" means any fuel derived from an alternate fuel and does not include any fuels derived from petroleum or natural gas.

"Wetlands areas" means, for purposes of Section 103(a)(12) of the Act, those geographical areas designated as wetlands areas by State or local environmental regulatory authorities, or in the absence of any such geographic designation, those areas that are inundated by surface or ground water with frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetation or aquatic life that requires saturated, seasonably saturated, or tidally saturated soil conditions for growth or reproduction.

§ 500.3 Electric Regions—Electric region groupings for reliability measurements under the Powerplant and Industrial Fuel Use Act of 1978.

(a) The following is a list of electric regions for use with regard to the Act. The regions are identified by FERC Power Supply Areas (PSA's) as authorized by Section 202(a) of the Federal Power Act except where noted. They will be reviewed annually by ERA. Each grouping meets one or more of the following criteria:

- (1) Existing centrally dispatched pools and hourly power brokers;
- (2) Systems with joint planning and construction agreements;
- (3) Systems with coordination agreements in the areas of:
 - (i) Generation reserve and system reliability criteria;
 - (ii) Capacity and energy exchange policies;
 - (iii) Maintenance scheduling; and
 - (iv) Emergency procedures for dealing with capacity or fuel shortages; or
- (4) Systems within the same National Electric Reliability Council (NERC) region with historical coordination policies.

(b) The PSA's referred to in the definition of electric regions in paragraph (a) of this section were first defined by the Federal Power Commission in 1936. The most recent reference to them is given in the 1970 *National Power Survey*, Vol. I, Pg. 1-3-16. In cases where a petitioner finds an ambiguity in a regional assignment, he shall consult with DOE for an official determination.

Electric Region Groupings and FERC PSA's:

1. Allegheny Power System (APS)—7, except Duquesne Light Company
2. American Electric Power System (AEP)—entire AEP System
3. New England Planning Pool (NEPOOL)—1, 2
4. New York Planning Pool (NYPP)—3, 4
5. Pennsylvania—New Jersey—Maryland Interconnection (PJM)—5, 6
6. Commonwealth Edison Company—14
7. Florida Coordination Group (FCG)—24
8. Middle South Utilities—25

9. Southern Company—22, 23
10. Gulf States Group—35
11. Tennessee Valley Authority (TVA)—20
12. Virginia—Carolina Group (VACAR)—18, 21
13. Central Area Power Coordination Group (CAPCO)—Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Duquesne Light Company
14. Cincinnati, Columbus, Dayton Group (CCD)—Cincinnati Gas and Electric Company, Columbus and Southern Ohio Electric Company, Dayton Power and Light Company
15. Kentucky Group—19
16. Indiana Group—Indiana Utilities except AEP
17. Illinois—Missouri Group (ILLMO)—15, 40
18. Michigan Electric Coordinated Systems (MECS)—11
19. Wisconsin—Upper Michigan Group (WUMS)—13
20. Mid-Continent Area Power Pool (MAAP)—16, 17, 26, 27, 28
21. Missouri—Kansas Group (MOKAN)—24, 29
22. Oklahoma Group—33, 36
23. Texas Interconnected Systems (TIS)—37, 38
24. Rocky Mountain Power Pool (RMPP)—31, 32
25. Northwest Power Pool (NWPP)—30, 42, 43, 44, 45
26. Arizona—New Mexico Group—39, 48 within Arizona
27. Southern California—Nevada—47, 48 in Nevada and California
28. Northern California—Nevada—46
29. Alaska (non-interconnected systems to be considered separately)—49
30. Idaho—Utah Group—41

§ 500.4 Criteria for determining if an electric generating unit is jurisdictional.

(a) *Single units.* A single electric generating unit is jurisdictional for purposes of FUA if it has a design capability of consuming any fuel or mixture as a primary energy source at a fuel heat input rate of 100 million Btu's per hour or greater;

(b) *Units in Combination.* An electric generating unit in a combination of two or more such units located at the same site, which, in the aggregate have a design capability of 250 million Btu's per hour or greater, may be jurisdictional where:

(1) *A new unit is added to one or more existing units.* (i) If one or more existing electric generating units are located on a single site and a new unit is added, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 100 million Btu's per hour and the new unit provided it has a heat input rate of 50 million Btu's per hour or greater.

(ii) If a combination of existing and new electric generating units located at

a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour jurisdictional threshold, ERA will consider each existing electric generating unit with a heat input rate equal to or greater than 100 million Btu's per hour and each new electric generating unit with a heat input rate equal to or greater than 50 million Btu's per hour, to be subject to the Act.

(2) *New units are added to new units.*

(i) Where one or more new units are added to new units subject to Title II of FUA, ERA will aggregate towards the 250 million Btu's per hour jurisdictional threshold all such electric generating units having a heat input rate equal to or greater than 50 million Btu's per hour.

(ii) When new units at a single site which are aggregated in accordance with the immediately preceding subparagraph equal or exceed the 250 million Btu's per hour threshold, ERA will consider each such electric generating unit at the site to be subject to Title II of the Act.

(3) *All units are existing.* If there are two or more existing electric generating units at a single site, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 50 million Btu's per hour.

Note.—Notwithstanding the criteria set forth above, for purposes of establishing jurisdiction, pursuant to Section 103(a)(7)(A)(ii) of the Act, over two or more units in a combination which are located at the same site, such units may be included in an aggregation calculation, irrespective of their individual design capability, provided the owner or operator of such units request ERA to include such units.

§ 500.5 Criteria for determining if an industrial unit is jurisdictional.

(a) *Single unit.* A single industrial unit is jurisdictional for purposes of FUA if it has a design capability of consuming any fuel or mixture as a primary energy source at a fuel heat input rate of 100 million Btu's per hour or greater;

(b) *Units in Combination.* An industrial unit in a combination with two or more such units located at the same site, which, in the aggregate have a design capability of 250 million Btu's per hour or greater, may be jurisdictional where:

(1) *A new unit is added to one or more existing units.* (i) If one or more existing units are located on a single site and a new unit is added, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 100 million Btu's per hour and the new unit

provided it has a heat input rate of 50 million Btu's per hour or greater.

(ii) If a combination of existing and new units located at a single site which, when aggregated in accordance with the immediately preceding subparagraph, equals or exceeds the 250 million Btu's per hour jurisdictional threshold, ERA will consider each existing unit with a heat input rate equal to or exceeding 100 million Btu's per hour and each new unit with a heat input rate equal to or exceeding 50 million Btu's per hour, to be subject to the Act.

(2) *New units added to new units.* (i) Where one or more new units are added to new units subject to Title II of FUA, ERA will aggregate towards the 250 million Btu's per hour threshold all such units having a heat input rate equal to or greater than 50 million Btu's per hour.

(ii) When new units at a single site which are aggregated in accordance with the immediately preceding subparagraph equal or exceed the 250 million Btu's per hour threshold, ERA will consider each such industrial unit at the site to be subject to Title II of the Act.

(3) *All units are existing.* If there are two or more units at a single site, ERA will aggregate towards the 250 million Btu's per hour threshold any existing unit with a heat input rate equal to or greater than 50 million Btu's per hour.

Note.—Notwithstanding the criteria set forth above, for purposes of establishing jurisdiction, pursuant to Section 103(a)(10)(A)(ii) of the Act, over two or more units in a combination which are located at the same site, such units may be included in an aggregation calculation, irrespective of their individual design capability, provided the owner or operator of such units request ERA to include such units.

(2) In Part 501, §§ 501.51 and 501.52 remain in effect as published in the interim rule on July 23, 1979, (44 FR 43187-43188). The remainder of Part 501 is revised to read as follows:

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

Subpart A—General Provisions

- | | |
|--------|------------------------------------|
| Sec. | |
| 501.1 | Purpose and scope. |
| 501.2 | Prepetition conference. |
| 501.3 | Petitions. |
| 501.4 | Computation of time. |
| 501.5 | Extension of time. |
| 501.6 | Service. |
| 501.7 | General filing requirements. |
| 501.8 | [Reserved] |
| 501.9 | Effective date of orders or rules. |
| 501.10 | Order of precedence. |
| 501.11 | Address for filing documents. |
| 501.12 | ERA Public Information Office. |
| 501.13 | Appeal. |

- Sec.
501.14 Notice to Environmental Protection Agency and the Federal Trade Commission.
- Subpart B—[Reserved]**
- Subpart C—Written Comments, Public Hearings and Conferences During Administrative Proceedings**
- 501.30 Purpose and scope.
501.31 Written comments.
501.32 Conferences (other than prepetition conferences).
501.33 Request for a public hearing.
501.34 Public hearing.
501.35 Public file.
- Subpart D—Subpoenas, Special Report Orders, Oaths and Witnesses**
- 501.40 Issuance.
501.41 Petition to withdraw or modify.
- Subpart E—Prohibition Rules and Orders**
- 501.50 [Reserved]
501.51 Prohibitions by order—existing powerplants.
501.52 Prohibitions by order—existing installations.
501.53 Prohibitions by rule—existing powerplants. [Reserved]
501.54 Prohibitions by rule—existing installations. [Reserved]
501.55 [Reserved]
501.56 Prohibition by rule or order—new MFBI nonboilers.
- Subpart F—Exemptions**
- 501.60 Purpose and scope.
501.61 General instructions.
501.62 Petition contents.
501.63 Notice of the commencement of an administrative proceeding on an exemption petition.
501.64 Publication of Notice of Availability of Tentative Staff Analysis.
501.65 Publication of Notice of Availability of Draft EIS.
501.66 ERA evaluation of the record, decision and order.
501.67 Petition redesignations.
501.68 Decision and order.
501.69 Judicial review.
- Subpart G—Requests for Modification or Rescission of a Rule or Order**
- 501.100 Purpose and scope.
501.101 Proceedings to modify or rescind a rule or order.
501.102 ERA evaluation of the record, decision and order for modification or rescission of an order or rule.
501.103 ERA decision.
- Subpart H—Requests for Stay**
- 501.120 Purpose and scope.
501.121 Filing and notice of petitions for stays.
501.122 Contents.
501.123 Evaluation of the record.
501.124 Decision and order.
- Subpart I—Requests for Interpretation**
- 501.130 Purpose and scope.
501.131 Filing a request for interpretation.
501.132 Contents of a request for interpretation.
501.133 DOE evaluation.
- Sec.
501.134 Issuance and effect of interpretations.
- Subpart J—Rulings**
- 501.140 Purpose and scope.
501.141 Criteria for issuance.
501.142 Modification or rescission.
501.143 Comments.
- Subpart K—Enforcement**
- 501.160 Purpose and scope.
501.161 Filing a complaint.
501.162 Contents of a complaint.
501.163 ERA evaluation.
501.164 Decision to initiate enforcement proceedings.
501.165 Commencement of enforcement proceedings.
501.166 Hearings and conferences.
501.167 Fuel Use Order.
- Subpart L—Investigations, Violations, Sanctions and Judicial Actions**
- 501.180 Investigations.
501.181 Sanctions.
501.182 Injunctions.
501.183 Citizen suits.
- Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes**
- 501.190 Purpose and scope.
501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in Section 103(a)(15)(B) of the Act.
501.192 Use of natural gas or petroleum during a temporary emergency condition pursuant to Section 404(g) of the Act.
- Authority:** Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, 42 FR 46267.
- Subpart A—General Provisions**
- § 501.1 Purpose and scope.**
- Part 501 establishes the procedures to be used in proceedings before DOE under Parts 500–518 of this chapter except as otherwise provided.
- § 501.2 Prepetition conference.**
- (a) ERA encourages owners and operators of powerplants and MFBI's who are, or may be subject to the prohibitions set forth in FUA, and who plan to file petitions for exemptions from any applicable prohibitions, to request a prepetition conference with ERA. Generally, the purpose of the prepetition conference will be to discuss the applicability of these regulations and the scope of the petition that ERA will accept for filing. Typically, we expect the conference to consider the alternate fuels and sites, combustion technologies, energy conservation measures, scheduling of construction and other matters that should be addressed in a particular exemption petition.

(b) An owner or operator of a powerplant or MFBI who requests a prepetition conference may appear at that conference personally, or he may appoint a representative to appear on his behalf.

(c) A prepetition conference or a request for a prepetition conference does not commence a proceeding before ERA.

(d) If ERA agrees to waive any filing requirements, ERA will prepare and mail a memorandum of record, identifying any requirements which ERA has agreed to waive to the petitioner within thirty (30) days after the prepetition conference. If the petitioner subsequently files a petition for exemption, he must attach a copy of the memorandum of record to the petition. DOE also reserves the right to request any additional information that may be necessary to act upon the petition.

(e) Because a prepetition conference is solely for the exchange of views, there will be no formal transcript, report or findings made by ERA, unless ERA, in its discretion, determines that it would be advisable. ERA will, however, place in the public file a record of any prepetition conference.

§ 501.3 Petitions.

(a) *Filing of petitions.* The owner or operator of a powerplant or installation, or his representative may file petitions for exemptions with ERA at the address listed below. Under FUA, any administrative proceeding before ERA commences upon the acceptance (as distinguished from the filing) of a petition by ERA.

(b) *Timeliness.* When ERA or FUA has imposed a time limit for filing any document, that filing shall be considered to have been accomplished at the time the document is received by ERA. ERA will consider documents received after 4:30 p.m. Eastern Standard Time (EST) to have been filed on the next business day.

(c) *Acknowledgement of petition.* (1) ERA will acknowledge receipt of each petition or document and will notify a petitioner in writing within thirty (30) days of receipt of the petition of the exact date on which a petition has been accepted or rejected and the reasons for such rejection.

(d) *Acceptance of petition.* A petition and its supporting documents will be accepted by ERA if it appears to contain all the information required by ERA to make subsequent analyses and determinations as to the merits of that petition. Upon acceptance of a petition for an exemption, ERA shall publish notice in the *Federal Register* that an administrative proceeding has

commenced in accordance with § 501.63. Acceptance of a petition and its supporting documents does not constitute or even suggest an approval of an exemption, nor does it foreclose ERA from requesting further information during the course of the proceeding. However, failure to provide the additional information could ultimately result in the denial of the request for exemption.

(e) *Rejection of petition.* ERA will reject a timely filed petition as unacceptable if it does not substantially meet the requirements of paragraph (d) of this section. ERA will retain at least three (3) copies of rejected petitions and documents for purposes of internal management and will return any other copies to the petitioner. In the case of existing facilities the rejection of a timely filed petition will not render a resubmitted petition untimely for purposes of filing, provided the resubmission is received by ERA within ninety (90) days from the date of rejection. The period for such resubmission may be extended for good cause shown as provided in § 501.5.

(f) *Incomplete petition.* A petition that substantially satisfies paragraph (d) of this section, but is otherwise incomplete because of minor deficiencies, will not be accepted or rejected. If ERA determines that a petition and its supporting documents are incomplete, it will notify the petitioner to that effect within thirty (30) days of receipt of the petition. ERA will allow ninety (90) days from the date the petition is determined to be incomplete for the petitioner to cure any defects in the petition, after which time, if not cured, the petition shall be deemed automatically rejected. Petitions cured within this time period will be considered to be accepted as provided in paragraph (d) of this section. ERA may extend the time to cure an incomplete petition for good cause shown, as provided in Section 501.5.

(g) *Written explanations.* ERA will provide a written explanation as to the defects in any petition which has been rejected or is incomplete within thirty (30) days of ERA's receipt of the petition, or as soon thereafter as practicable.

(h) *Place for filing petitions.* Documents must be sent to the address set forth in § 501.11. Documents sent by wire or facsimile must be subsequently confirmed in writing.

(i) *Waiver of evidentiary and other filing requirements.* ERA may waive some or all of the requirements supporting a petition or other filing if it determines that the purposes of FUA are best achieved by doing so.

§ 501.4 Computation of time.

(a) *Days.* When ERA computes time in days under these regulations, ERA will not include the day from which a period of time begins to run. ERA will include the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which case the period runs until the end of the next weekday that is not a Federal legal holiday.

(b) *Additional time after service by mail.* Whenever DOE serves an order, notice, interpretation or other document by mail, specifying a time period to perform an act, refrain from performing an act, or commence a proceeding, three (3) days may be added to the period prescribed.

§ 501.5 Extension of time.

ERA will grant for good cause shown, an extension of time to file a petition.

§ 501.6 Service.

(a) DOE will serve all orders, notices, interpretations or other documents that it is required to serve, personally or by certified mail, unless otherwise provided in these regulations.

(b) DOE will consider served upon a petitioner's duly authorized representative to be service upon the petitioner.

(c) Service by certified mail is effective upon mailing. ERA will consider official United States postal receipts from certified mailing as prima facie evidence of service.

§ 501.7 General filing requirements.

(a) *Purpose and scope.* This section applies to all documents filed with DOE by a petitioner and any other parties or participants in proceedings under this Part.

(b) *Signing.* (1) A petitioner or his representative must sign and verify a petition or other documents in accordance with the provisions set forth in these regulations.

(2) If a petitioner's representative files any petition or other document, he must certify in the document that he is a duly authorized representative.

(c) *Number of documents.* A petitioner must file an executed original and fifteen (15) copies of all documents submitted to ERA.

(d) *Labeling.* A petition or other document filed with ERA must be clearly labeled, both on the document and on the outside of the envelope, according to the nature of the action involved (e.g., "Fuel Use Act: Petition for Exemption").

(e) *Obligation to supply information.* In any ERA proceeding, the petitioner and all parties to the proceeding are under a continuing obligation to provide

ERA or the presiding officer with any new or newly discovered information believed to be relevant and material to that proceeding.

(f) *The same or related matters.* In filing a petition or other document requesting ERA action, the person must state whether, to the best of his knowledge, the same or a related issue, act or transaction has been or presently is being considered or investigated by a DOE office, other Federal agency, department or instrumentality, or a State or municipal agency.

(g) Request for confidential treatment.

(1) If any person wishes to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 as amended) or is otherwise exempt by law from public disclosure, and if the person wishes to request ERA not to disclose such information, the person must file, together with the document, a second copy of the document from which the information claimed to be confidential has been deleted, except as provided in subparagraph (5) of this paragraph. The person must indicate what information is claimed to be confidential in the original document and must file a statement specifying the justification for nondisclosure. If the petitioner asserts that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, he must include a statement specifying why the information is confidential. (For additional guidance see 10 CFR 1004.)

(2) ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny the claim, in whole or in part, will be given to the person claiming the information is confidential no less than seven (7) days prior to the public disclosure of the information including an opportunity to respond or take other appropriate action to avoid such release.

(3) This subsection does not apply when information is being submitted on an ERA form that contains its own instructions as to requests for confidential treatment of information provided.

(4) A separate request for confidential treatment must be made with respect to each identified document and must be made at the time that document is first submitted to ERA.

(5) In the case of petitions for exemption, the petitioner must file an original and twelve (12) copies of the confidential document and three (3)

copies of the document with confidential material deleted.

§ 501.8 [Reserved]

§ 501.9 Effective date of orders or rules.

When ERA issues a rule or order imposing a prohibition or granting an exemption (or permit) under FUA, the rule or order will be effective sixty (60) calendar days after publication in the *Federal Register*, unless it is stayed, modified, suspended or rescinded.

§ 501.10 Order of precedence.

If there is any conflict or inconsistency between the provisions of this part and any other provisions or parts of this chapter, except for general procedures which are unique to Parts 508 and 515, the provisions of this part will control with respect to procedure.

§ 501.11 Address of filing documents.

(a)(1) Send all petitions, forms, written communications, or other documents not included in paragraph (a)(2) of this section to the following address:

Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

(2) Send all requests for interpretations and interpretive rulings to the following address:

Assistant General Counsel for Interpretations and Rulings, 1000 Independence Avenue SW., Forrestal Building, Washington, DC 20545.

(b) The DOE National Office has facilities for the receipt of transmission via TWX and FAX to its offices at 1000 Independence Avenue SW. (Forrestal) and 2000 M Street NW. (The FAX machines are 3M full duplex 4 or 6 minute (automatic). For purposes of these regulations, all your transmissions should be to the facilities at 2000 M Street NW., except those to be sent to the Office of General Counsel, which should be transmitted to the facilities located at Forrestal.

FAX Numbers:

(202) 252-5100 (3M) (Forrestal).
(202) 653-3613 (3M) (2000 M St.).

TWX Numbers:

(710) 822-0176 (Forrestal).
(710) 822-9454 (2000 M St.).

§ 501.12 ERA public information office.

DOE will make available at Room B-110, 2000 M Street, NW., Washington, D.C., for public inspection and copying:

(a) Each rule, order or other administrative determination that is issued as a final agency action on a matter before ERA;

(b) Any written comments received from interested persons in connection

with issuance of a rule, order or other determination, modifications or rescissions or stays of rules, or determinations, and verbatim transcripts of any oral comments made at public hearings, or at prepetition conferences where a transcript was made;

(c) Any comments received during each rulemaking proceeding and a verbatim transcript of any public hearings that may have been held in any rulemaking proceeding; and

(d) Any other information required by statute to be made available for public inspection and copying, and any information that ERA determines should be made available to the public.

§ 501.13 Appeal.

There is no administrative appeal of any final administrative action to which this part applies.

§ 501.14 Notice to Environmental Protection Agency and the Federal Trade Commission.

(a) A copy of any proposed rule or order that imposes a prohibition, or a petition for an exemption or permit, shall be transmitted for comments, if any, to the Administrator and the appropriate Regional Administrator of the Environmental Protection Agency. The Administrator of EPA shall be given the same opportunity within the comment period provided to the public to comment and question as is given to other interested persons.

(b) A copy of any proposed rule or order which imposes a prohibition with respect to an MFBI, or a petition by an MFBI for an exemption or permit, shall be transmitted for comments, if any, to the Federal Trade Commission. The Federal Trade Commission shall be given the same opportunity within the comment period provided to the public to comment and question as is given to other interested persons.

Subpart B—[Reserved]

Subpart C—Written Comments, Public Hearings and Conferences During Administrative Proceedings

§ 501.30 Purpose and scope.

This subpart establishes the procedures for requests for and the conduct of public hearings; for submitting written comments; and requests for and conduct of conferences pursuant to an administrative proceeding before ERA. Hearings shall be convened at the request of any interested person, in accordance with section 701(d) of FUA, and shall be held at a time and place to be decided by the presiding officer.

§ 501.31 Written comments.

(a) *New facilities.* Except as may be provided elsewhere in these regulations, ERA shall provide a period of at least forty-five (45) days for submission of written comments concerning a proposed prohibition rule or order or a petition for an exemption or permit. This period shall commence in the case of a petition for an exemption on the day after publication of the notice of acceptance in the *Federal Register* in accordance with § 501.63(a). ERA shall also provide for a period of at least fourteen (14) days for submission of written comments concerning a tentative staff analysis. This period shall commence on the day after publication of the notice of availability of the tentative staff analysis in the *Federal Register*. The period may be extended by ERA in accordance with § 501.5. Written comments shall be filed in accordance with § 501.7.

(b) *Existing facilities.* [Reserved]

§ 501.32 Conferences (other than prepetition conferences).

(a) At any time following commencement of a proceeding before ERA, an interested person may request a conference with the staff of ERA to discuss a petition, permit or any other issue pending before ERA. The request for a conference should generally be in writing and should indicate the subjects to be covered and should describe his interest in the proceeding. Conferences held after the commencement of an administrative proceeding before ERA shall be convened at the discretion of ERA or the presiding officer.

(b) When ERA convenes a conference in accordance with this section, any person invited may present views as to the issue or issues involved. Documentary evidence may be submitted at the conference and such evidence will be included in the administrative record. ERA will not normally have a transcript of the conference prepared but may do so at its discretion.

(c) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings by ERA unless ERA in its discretion determines that it would be advisable. ERA will, however, place in the public file a record of any conference.

§ 501.33 Requests for a public hearing.

(a) *New facilities.* No later than fourteen (14) days after the publication of a notice of availability of a tentative staff analysis, any interested person may submit a written request that ERA convene a public hearing in accordance

with Section 701 of FUA. This time limit may be extended at the discretion of ERA. The request for a public hearing must include a description of the requesting party's interest in the issue or issues involved, and an outline of the anticipated content of the presentation proposed to be made. The request should, to the extent possible, identify any witnesses that are intended to be called at the hearing and include, if possible, a summary of their anticipated testimony and/or questions expected to be asked.

(b) *Existing facilities.* [Reserved]

§ 501.34 Public hearing.

(a) A public hearing under this subsection is for the purposes of insuring that all issues are fully and properly developed, but is not an adjudicatory hearing, and the provisions of Sections 554 and 556 of the Administrative Procedure Act (5 U.S.C. 554, 556) do not apply.

(b) *Opportunity to be heard at a public hearing.* (1) Any interested person, may request, and ERA will provide, an opportunity for him to present oral or written data, views and arguments at a public hearing on any proposed prohibition rule or order, hearing on a tentative staff analysis or on any petition for exemption or permit. An interested person may file a request to be listed as a party to a hearing on the service list prepared by the presiding officer pursuant to § 501.34(d). An interested person must submit a signed written request for a hearing or to participate in a hearing, or to be included on the service list. It must include a description of the interest in the issue or issues involved and an outline of the anticipated content of the presentation.

(2) Participants at the public hearing will have an opportunity to present oral or written data, views and arguments.

(3) A person who has requested a public hearing may withdraw his request at any time. If other persons have requested to participate as parties in the public hearing by requesting that they be included in the presiding officer's service list, ERA may cancel the hearing only if these parties agree to cancellation. ERA will give notice, whenever possible, in the *Federal Register* of the cancellation of any hearings for which there has been prior notice.

(c) *Presiding officer.* ERA will appoint a presiding officer to conduct the public hearing.

(d) *Powers of the presiding officer.* The presiding officer is responsible for orderly conduct of the hearing and for certification of the record of the public

hearing. The presiding officer will not prepare any recommended findings, conclusions, or any other recommendations for disposition of a particular case. The presiding officer has, but is not limited to the following powers:

- (1) Administer oaths, affirmations and protective orders;
- (2) Issue administrative subpoenas and rule on motions to modify or withdraw subpoenas that he has issued;
- (3) Rule on questions as to relevance and materiality of evidence;
- (4) Regulate the course of the public hearing;
- (5) Hold conferences for the simplification of issues by consent of the parties;
- (6) Require submission of evidence in writing where appropriate;
- (7) Establish service lists;
- (8) Dispose of procedural requests and similar matters;
- (9) Take other actions authorized by these rules.

The presiding officer may also limit the number of witnesses to be presented by any party and may impose reasonable time limits for testimony. The presiding officer shall establish and maintain a service list that contains the names and addresses of all parties to the ERA proceeding. At the time the presiding officer certifies the record, he will provide the staff of ERA which an index of the issues addressed in the record.

(e) *Notice.* ERA will convene a public hearing only after publishing a notice in the *Federal Register* that states the time, place and nature of the public hearing.

(f) *Opportunity to question at the public hearing.* At any public hearing requested pursuant to paragraph (b) of this section, with respect to disputed issues of material fact, ERA will provide any interested person an opportunity to question:

- (1) Other interested persons who make oral presentations;
- (2) Employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of the petition for an exemption or permit; and
- (3) Experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation.

(g) ERA encourages persons who wish to question Government witnesses to submit their questions at least ten (10) days in advance of the hearing.

(h) The presiding officer will allow questions by any interested person to be

asked of those making presentations or submitting information, data, analyses or views at the hearing. The presiding officer may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of issues pending in the administrative proceeding for which the hearing is being conducted.

(i) The presiding officer or ERA may exercise discretion to control a hearing by denying, temporarily or permanently, the privilege of participating in a particular ERA hearing if ERA finds for example that a person:

- (1) Has knowingly made false or misleading statements, either orally or in writing;
- (2) Has knowingly filed false affidavits or other writings;
- (3) Lacks the specific authority to represent the person seeking an ERA action; or
- (4) Has disrupted or is disrupting a hearing.

(j) *Evidence.* (1) The presiding officer is responsible for orderly submission of information, data, materials, views or other evidence into the record of the public hearing. The presiding officer may exclude any evidence that is irrelevant, immaterial or unduly repetitious. Judicial rules of evidence do not apply.

(2) Documentary material must be of a size consistent with ease of handling, transportation and filing, and a reasonable number of copies should be made available at the public hearing for the use of interested persons. An original and fourteen (14) copies shall be furnished to the presiding officer and one copy of each party listed on the service list. Large exhibits that are used during the hearing must be provided on no larger than 11 1/2" x 14" legal size paper if they are to be submitted into the hearing record.

(k) *Hearing record.* ERA will have a verbatim transcript made of the public hearing. The hearing record shall remain open for fourteen (14) days following the public hearing, during which time the participants at the hearing may submit additional written statements which will be made part of the administrative record and will be served by the presiding officer upon those parties listed on the service list. ERA may extend the period during which the hearing record remains open. The transcript, together with any written comments submitted in the course of the proceeding, will be made part of the record available for public inspection and copying at the ERA Public Information Office, as provided in § 501.12.

(1) *ERA's record and decision.* ERA's administrative record will consist of all relevant evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made part of the record. ERA will base its determination to issue a rule or order on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

§ 501.35 Public file.

(a) *Contents.* The public file shall consist of the rule, order, or petition, with supporting data and supplemental information, and all data and information submitted by interested persons. Materials which are claimed by any party to be exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552) shall be excised from the public file provided ERA has made a determination that the material is confidential in accordance with § 501.7(g).

(b) *Availability.* The public file shall be available for inspection at Room B-110, 2000 M Street, NW., Washington, D.C. Photocopies may be made available, on request. The charge for such copies shall be made in accordance with a written schedule.

Subpart D—Subpoenas, Special Report Orders, Oaths, and Witnesses

§ 501.40 Issuance.

The Administrator, his duly authorized agent or a presiding officer, in accordance with the provisions of 10 CFR 205.8 and 10 CFR 205.201, and as otherwise authorized by Section 711 of FUA and Section 645 of the DOE, may sign, issue and serve subpoenas; issue special report orders (SRO); administer oaths and affirmations; take sworn testimony; compel attendance of and sequester witnesses; control dissemination of any record of testimony taken pursuant to this section; and subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevant records of tangible evidence including, but not limited to, information retained in computerized or other automated systems in the possession of the subpoenaed person.

§ 501.41 Petition to withdraw or modify.

Prior to the time specified for compliance in the subpoena or special report order, a person to whom a subpoena or special report order is directed may apply for its withdrawal or modification, in accordance with 10 CFR

205.8, except that if the subpoena or special report order is issued by a duly appointed presiding officer, the request to withdraw or modify must be addressed to that presiding officer and its grant or denial will be decided by him.

Subpart E—Prohibition Rules and Orders

§ 501.50 [Reserved]

§ 501.53 Prohibitions by rule—existing powerplants. [Reserved]

§ 501.54 Prohibitions by rule—existing installations. [Reserved]

§ 501.55 [Reserved]

§ 501.56 Prohibition by rule or order—new MFBI nonboilers.

(a) *Prohibition by rule.* (1) Pursuant to section 202 of FUA, ERA may prohibit by rule the use of petroleum or natural gas as a primary energy source by new MFBI's that are combustion turbine units, combined cycle units or internal combustion engines.

(2) In such a rulemaking, ERA will consider any special circumstances or characteristics of the category of nonboilers that would be prohibited from using natural gas or petroleum as a primary energy source. ERA will specifically consider such factors as the overall technical feasibility of category members to burn an alternate fuel as a primary energy source, as well as the size of category members and their location. ERA will consider any other circumstances, characteristics, and factors brought to its attention that it determines to be relevant and appropriate to the rulemaking.

(3) The application of any final rule to any new MFBI shall be stayed pending resolution (including judicial review) of any petition for an exemption for the installation that is filed with ERA not later than 60 days after the final rule is published under Section 702(a) of FUA.

(4) No final rule can be applied to the installation if:

- (i) It has received a final order containing a comparable prohibition;
- (ii) It was proposed to receive an order but did not do so due to a demonstration that the installation could qualify for an exemption under the Act;
- (iii) A stay, pursuant to Section 202(a) of FUA, is in effect pending resolution of any petition for an exemption that has been filed within sixty (60) days after publication of that rule pursuant to Section 702(a) of FUA; or
- (iv) An exemption has been petitioned for and granted to the installation.

(b) *Prohibition by order.* (1) ERA may prohibit by order the use of petroleum or natural gas as a primary energy source in a new MFBI consisting of a combustion turbine, a combined cycle unit or an internal combustion engine if that installation has not been identified as a member of a category subject to a final prohibition rule at the time of the issuance of the proposed order.

(2) ERA may not issue a final order to an installation under this subsection if it has been demonstrated that there would have been granted an exemption for the installation if the prohibition had been established by rule. If the installation would have been granted a temporary exemption, however, ERA may issue a final order that will take effect at the time the temporary exemption would have terminated.

(3) In any case in which an order is not issued by reason of paragraph (b)(2) of this section, or in which the effective date of such order is delayed under that paragraph, ERA shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of Section 214(a) of FUA) as would have been applicable if an exemption had been granted based upon grounds for which the order is not issued or the effective date would be delayed.

(c) *Exceptions.* If acquisition or construction began for a nonboiler prior to the date of publication of the proposed rule or proposed order, the nonboiler shall be considered an "existing" nonboiler for purposes of treatment under the Existing Major Fuel-Burning Installations Section (Title III, Subtitle A) of the FUA.

(d) *Notice of rules and orders, and public participation.* Pursuant to Section 701 of FUA, prior to the issuance of a final rule or order to a new nonboiler, ERA shall publish a proposed rule or order in the *Federal Register* together with a statement of the reasons of the rule or order. In the case of a proposed rule, ERA will, in identifying categories of new MFBI's, explain and account for any special circumstances or characteristics of each category, including the technical feasibility of burning coal and/or other alternate fuels and the size or geographic location of installations in the category described by the proposed rule.

(e) *Record and decision to issue a final rule or order.* (1) ERA's record will consist of all evidence presented at the public hearing, the written comments, and any other relevant information in the possession of ERA and made a part of the record of the proceeding. ERA will base its determination to issue a rule or order on consideration of the whole

record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(2) ERA shall include in the final rule or order a written statement of the pertinent facts, a statement of the legal basis upon which the final rule is issued, a recitation of the conclusions regarding the required findings, and a summary of the rationale for each finding. The final rule or order shall state the effective date(s) of the prohibition(s) contained therein.

(3) ERA may enclose with a copy of the final rule or order a schedule of steps that should be taken by a stated date (a compliance schedule) to ensure that the affected installation(s) will be able to comply with the prohibitions stated in the rule or order by the effective date. The compliance schedule may require the affected person to take steps with regard to a unit sixty (60) days after service of the final rule or order.

Subpart F—Exemptions

§ 501.60 Purpose and scope.

(a)(1) If the petitioner plans to construct a new powerplant or new MFBI consisting of a boiler, or owns, operates, or controls such a new unit, and the unit is subject to one or more of the FUA prohibitions, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, Sections 211 and 212 of FUA.

(2) If the petitioner plans to construct or owns, operates or controls a new MFBI other than a boiler and such unit is subject to a prohibition by order or rule, this subpart establishes the procedures for filing a petition requesting a temporary exemption under, respectively, Sections 211 and 212 of FUA.

(3) If the petitioner owns, operates or controls an existing powerplant or MFBI, and the unit is subject to a prohibition by rule or order, this subpart provides the procedures for filing a petition for temporary or permanent exemption under respectively, Sections 311 and 312 of FUA.

(4) If the petitioner owns, operates or controls a new or existing powerplant of MFBI, this subpart provides the procedures for filing a petition requesting extension of a temporary exemption granted under Section 211 or Section 311 of FUA.

(b) If the petition is for an extension of a temporary exemption, the petitioner must apply for this extension at least

ninety (90) days prior to the expiration of the temporary exemption.

§ 501.61 General instructions.

(a) *Petition contents.* An exemption petition may be required to include an analysis of a number of alternate fuels, alternate sites, or alternate power supplies in order for it to be accepted by ERA. Precisely which alternate fuels must be considered in a particular exemption petition may be specified in either a prepetition conference (§ 501.2) or at ERA's discretion prior to submission of the petition. To facilitate this process, ERA encourages the petitioner to under take preliminary work before the prepetition conference to help ERA understand the petitioner's circumstances. ERA may also waive any filing requirement where ERA determines that it is unnecessary. ERA does, however, retain the right to request more information beyond the initial scope of the exemption if we believe the petitioner has failed to adequately demonstrate that he could not use a particular fuel. The specific information which must be included in the petition will differ depending on the kind of exemption or type of unit under consideration and is outlined in detail in the evidentiary requirements for each exemption (Parts 503 and 504). If the petitioner is required to examine one or more alternate fuels (§§ 503.16 and 504.21), he must demonstrate for each fuel that he qualifies for one or more exemptions. The petitioner must also meet the eligibility and evidentiary requirements pertaining to the appropriate specific exemptions. Thus it is possible that one petition may include requests for several exemptions for each alternate fuel examined (and in the case of powerplants, for each potential alternate site).

(b) *Incorporation by reference.* The petitioner may incorporate pertinent information by references into his petition when this will reduce the amount of material submitted without impeding the agency and public review of the petition. The petitioner must specifically identify the incorporated material in the text of the petition and briefly describe its content. Whenever the petitioner incorporates by reference information contained in any DOE form filed by him, he must indicate the name of the form, its date, and the page and section number containing the incorporated material. The petitioner may not incorporate by reference any information unless it is submitted with the petition or has been submitted previously to DOE, in which case the petitioner must identify the office to which it was submitted. The petitioner

may not incorporate by reference any material based on proprietary data which is itself not available to DOE for review and comment.

(c) *What to file.* The petitioner filing a petition under this subpart must file with ERA an executed original petition and fourteen (14) copies of all documents including:

(1) The petition contents as outlined in § 501.62 and detailed in Parts 503 and 504; and

(2) Each appropriate form.

(d) *Where to file.* The petitioner must file any petition for exemption or extension of exemption under this subpart with ERA at the address provided in § 501.11.

(e) *Labeling the petition package.* (1) With respect to an exemption for a new or existing powerplant or installation under this subpart, the petition should be clearly labeled both on the petition and on the outside of the envelope in which the petition is transmitted as one of the following:

(i) Petition for Temporary Exemption,

(ii) Petition for Permanent Exemption,

or

(iii) Petition for Extension (or Renewal) of Temporary Exemption.

§ 501.62 Petition contents.

(a) A petition for exemption should include the following information:

(1) The name of the petitioner;

(2) The name and location of the unit for which an exemption is being requested;

(3) The specific exemption(s) being requested; and

(4) The name, address, and telephone number of the person who can supply further information.

(b) *Table of Contents.* Include only those sections contained in the petition.

(c) *Introduction.* Include the following:

(1) Description of the facility under consideration;

(2) Description of the unit and fuel the petitioner proposes to burn in that unit, including the purpose of and need for the unit; and

(3) Description of the operational requirements for the unit, including size (capacity, input and output in millions of Btu's per hour), output in terms of product or service to be supplied, fuel capability, and operating mode, including capacity factor, utilization factor, and fluctuations in the load.

(d) *General requirements.* The evidence required under either Part 503 Subpart B or Part 504 Subpart C, as appropriate to each exemption(s) for which the petitioner is applying:

(1) No alternate power supply (§ 503.8 or § 504.13);

(2) Use of mixtures (§ 503.9 or § 504.15);
 (3) Use of fluidized bed combustion (§ 503.10 or § 504.16);
 (4) Alternative site (§ 503.11);
 (5) Compliance Plan (§ 503.12 or § 504.17);
 (6) Conservation measures (§ 503.13 or § 504.18);
 (7) Petroleum and natural gas consumption (§ 503.14 or § 504.19);
 (8) Environmental impact analysis (§ 503.15 or § 504.20);
 (9) Fuels search (§ 503.16 or § 504.21).
 (e) *Specific evidence.* Evidence required for each exemption, segregated by exemption (Part 503 Subparts C and D or Part 504 Subparts D and E, as appropriate).

(f) *References.* (1) Specify the reports, documents, experts, and other sources consulted in compiling the petition. Cite these sources in accordance with acceptable documentation standards, and indicate the part of the petition to which they apply. If the source is unusual or little known, briefly describe its contents.

(2) Identify at the end of each section of the petition any information or any statement based, in whole or in part, on information or principles which, to petitioner's knowledge, represent significant innovations to or departures from generally accepted facts or principles.

(g) *Appendices.* Include in the appendices material which the petitioner believes substantiates any analyses fundamental to the petition, materials prepared in connection with it, and any other documents, studies, or analyses which he believes are relevant to the decision to be made. Also, include in the appendices copies of any forms submitted as part of the petition.

(h) *List of Preparers and Certifications.* List the names with the qualifications and professional credentials of the principal contributors to the preparation of the petition. Indicate the sections or subject matters for which each principal contributor was responsible.

§ 501.63 Notice of the commencement of an administrative proceeding on an exemption petition.

(a) Upon acceptance of a petition for an exemption, ERA shall publish notice in the *Federal Register* that an administrative proceeding has commenced. The notice will announce the commencement of the proceeding, provide a summary of the exemption petition and provide a period of no less than 45 days for interested persons to file written comments on the exemption petition.

(b) Upon acceptance of a petition, ERA shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of a powerplant or, where appropriate, an MFB that is the subject of the petition. To the maximum extent practicable, ERA shall consult with such agencies.

(c) ERA will transmit a copy of all petitions which have been accepted to the Administrator of the Environmental Protection Agency, and all petitions which have been accepted with respect to MFB's to the Federal Trade Commission.

(d) In processing an exemption petition, ERA shall comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality implementing regulations guidelines implementing the regulations, and DOE guidelines implementing those regulations (45 FR 20694). ERA shall determine the appropriate level of NEPA review for each exemption petition. Performance of NEPA review may consist of preparation of (1) an environmental impact statement (EIS) evaluating the grant or denial of an exemption petition, (2) preparation of an environmental assessment (EA), or (3) preparation of a memorandum to the files stating that the proposal is not considered to be a major federal action. If it is determined that an EIS will be required, ERA will publish in the *Federal Register* a Notice of Intent (NOI) to prepare an EIS as soon as practicable after commencement of an administrative proceeding. A public hearing may be held to solicit comments or suggestions on the structure and content of the EIS.

§ 501.64 Publication of Notice of Availability of Tentative Staff Analysis.

ERA will publish in the *Federal Register* a Notice of the Availability of Tentative Staff Analysis with respect to every exemption petition and provide a period of at least fourteen (14) days for interested persons to make comments and request a hearing.

§ 501.65 Publication of Notice of Availability of Draft EIS.

Issuance of a draft EIS EA, or preparation of the memorandum to the files, will occur simultaneously with publication of a Notice of Availability of Tentative Staff Analysis. A Notice of Availability of any draft EIS will be published in the *Federal Register* and comments thereon will also be solicited. Interested persons may request a hearing on any draft EIS. Such hearing must be requested within thirty (30)

days of publication of the Notice of Availability.

§ 501.66 ERA evaluation of the record, decision and order.

(a) The record will consist of the petition and related documents, all evidence presented at the public hearings, all written comments, and any other information in the possession of ERA and made a part of the public record.

(b) ERA may investigate and corroborate any statement in a petition, any other document and any public comments submitted to it. ERA may use any relevant facts it possesses in its evaluation. ERA may request submissions from third persons relevant to your petition or other document. ERA may also request additional information, data or analyses following the hearing, if this information is necessary to resolve disputed issues in the record. Any information received by ERA following the hearing shall be made a part of the public record, unless determined under § 501.7(g) to be confidential.

§ 501.67 Petition redesignations.

ERA, with the petitioner's approval, will redesignate an exemption petition if the petitioner qualifies, even though he may not qualify for the specific exemption originally requested, or for the full time period of the requested exemption. ERA shall give public notice of any redesignation of an exemption petition, and where a public hearing has been requested notice shall be given at least thirty (30) days prior to such hearing.

§ 501.68 Decision and order.

(a)(1) ERA shall issue an order either granting or denying the petition for an exemption or permit within six (6) months after the end of the period for public comment and hearing applicable to any petition.

(2) ERA may extend the six (6) month period for decision to a date certain by publishing notice in the *Federal Register*, and will state the reasons for such extension.

(3) ERA will publish a final EIS at least thirty (30) days prior to the issuance of the final order in all cases where an EIS is required.

(b)(1) ERA shall serve the petitioner and all persons on the service list in cases involving a public hearing a copy of the order granting or, denying a petition, for exemption.

(2) ERA shall publish any order granting or denying a petition under this subpart in the *Federal Register* together

with a statement of the reasons for the grant or denial.

(c) Any order granting or denying a petition for exemption shall be based upon consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with reliable, probative and substantial evidence.

(d)(1) ERA shall include in any order granting a petition for exemption, except for an order granting an exemption under Section 401 of FUA, such terms and conditions as ERA determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of FUA.

(2) ERA shall design any terms and conditions included in any temporary exemption issued or extended under Sections 211 and 311 of FUA, to ensure among other things that upon expiration of the exemption, the persons and powerplant or installation covered by the exemption will comply with the applicable prohibitions under FUA.

§ 501.69 Judicial review.

Any person aggrieved by any order issued by ERA under this subpart, must file, within sixty (60) days of publication of the final order in the *Federal Register*, a petition for judicial review with the United States Court of Appeals for the Circuit wherein he resides, or has a principal place of business. Exhaustion of administrative remedies for purposes of judicial review does not require filing a petition pursuant to Subpart G for modification or rescission of the order to be reviewed.

Subpart G—Requests for Modification or Rescission of a Rule or Order.

§ 501.100 Purpose and scope.

Anyone may request that ERA commence a rulemaking proceeding pursuant to 5 U.S.C. 553(e); however, this subpart provides the procedures whereby—

(a) An interested person may request modification or rescission of a prohibition by rule for a new facility;

(b) An owner or operator of a facility named in a prohibition by rule may request modification or rescission of that rule; or

(c) An owner or operator subject to an exemption order or a specific prohibition imposed by order may request modification or rescission of that order.

§ 501.101 Proceedings to modify or rescind a rule or order.

(a) In response to a request duly filed by an interested person, ERA may

commence a proceeding to modify or rescind that rule or order. If ERA determines that a request to modify or rescind a rule or order does not warrant commencement of a proceeding, it will deny the request and issue a brief statement why it does not intend to institute the requested proceedings.

(b) A request for modification or rescission of a rule or order must comply with the requirements of § 501.7 and must be filed at the address set forth in § 501.11.

(c) Notice of the request for modification or rescission of an order must be given by the requester to each party to the original proceeding that resulted in the issuance of the original order for which modification or rescission is sought. If the number of parties to the original proceeding is too large to allow actual notice at a reasonable cost or within a reasonable time, a requester may ask that ERA give notice to the parties by publication in the *Federal Register*; however, this alternate notice does not bind ERA to commence a proceeding, if it subsequently determines that the request is not warranted.

(d) If ERA determines to grant a request to commence a proceeding to rescind or modify a rule or order, or ERA on its own initiative, commences a proceeding for the modification or rescission of a rule or order, it will give notice, either by service of a written notice or by oral communication (which communication must be promptly confirmed in writing) to each person who was served the order that ERA proposes to modify or rescind, or, alternatively, by publication of notice in the *Federal Register*. ERA will give a reasonable period of time for each person notified to file a written response.

(e)(1) A copy of any written comments submitted to ERA by a party to the original proceeding with respect to a request for modification or rescission of a rule or order filed under this subpart must also be sent to the requester. The party submitting such comments must certify to ERA that he has sent a copy of such comments to the requester.

(2) ERA may notify other persons participating in the proceeding of the comments and provide an opportunity for the persons to respond.

(f) A request for modification or rescission of a rule or order must contain a complete statement of all facts relevant to the action sought. The request must also include the names and addresses of all reasonably ascertainable persons who will be affected. Pertinent provisions contained in any documents believed to support a

request may be briefly described, however, ERA reserves the right to obtain copies of any significant documents that will assist in making a determination on the merits of a request. The request must identify the specific order or rule for which modification or rescission is sought. A request should also indicate whether an informal conference will facilitate ERA's determination to commence, or not to commence a proceeding, or will assist ERA in making any determinations on material issues raised by the request.

(g) A decision by ERA to commence a proceeding under this subpart does not entitle the requester to a public hearing on the request for modification or rescission. A public hearing may be held, however, if, in its discretion, ERA considers that a public hearing will advance its evaluation of the request.

§ 501.102 ERA evaluation of the record, decision and order for modification or rescission of a rule or order.

(a) ERA will consider the entire administrative record in its evaluation of the decision and order for modification or rescission of a rule or order. ERA may investigate and corroborate any statement in the petition or related documents and may utilize in its evaluation any relevant facts obtained by its investigations. ERA may solicit or accept submissions from third persons relevant to any request under this subpart and the requester will be afforded an opportunity to respond to these submissions. ERA may, on its own initiative, convene a conference, if, in its discretion, it considers that this will advance its evaluation of the request.

(b) *Criteria.* Except where modification or rescission of a rule or order is initiated by ERA, ERA's decision to rescind or modify an order or rule will be based on a determination that there are significantly changed circumstances with respect to the applicability of a particular prohibition or exemption, to the requester. ERA believes that there may be "significantly changed circumstances", if:

(1) Significant material facts are subsequently discovered which were not known and could not have been known to the petitioner or to ERA at the time of the original proceeding;

(2) A law, regulation, interpretation, ruling, order or decision on appeal that was in effect at the time of the proceeding upon which the rule or order is based and which, if it had been made known to ERA would have been relevant to the proceeding and would have substantially altered the outcome is subsequently discovered; or

(3) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order was based, which change occurred during the interval between issuance of the order and the date of filing of the request under this subpart, and was caused by forces or circumstances beyond the requester's control.

§ 501.103 ERA decision.

(a) ERA shall issue an appropriate rule or order after considering the request for modification or rescission of an order or rule and other relevant information received during the proceeding.

(b) ERA will either modify or rescind the rule or order or deny the request for modification or rescission and will briefly state the pertinent facts and legal basis of the rule or order.

(c) ERA will serve the rule or order upon the requester, or, if the action was initiated by ERA, upon the owner or operator of the affected powerplant or installation. ERA will publish a notice of the issuance of a rule or order modifying or rescinding a rule or order in the Federal Register.

Subpart H—Requests for Stay

§ 501.120 Purpose and scope.

(a) This subpart sets forth the procedures for requesting and granting a stay by ERA but does not apply to the mandatory stays provided for in Sections 202(b) and 301(a) of FUA. The application for a stay under this subpart will only be considered incidental to a proceeding on a request for modification or rescission of a final prohibition rule or order.

(b) The petitioner must comply with all final ERA orders, regulations, rulings, and generally applicable requirements unless a petition for a stay is granted.

§ 501.121 Filing and notice of petitions for stays.

(a)(1) The petition must be in writing and comply with the general filing requirements stated in § 501.7, in addition to any other requirements set forth in this subpart, and filed at the address provided in § 501.11.

(2) A claim for confidential treatment of any information contained in the petition for stay and supporting documents must be in accordance with § 501.7(f), and filed at the address provided in § 501.11.

(b) ERA will publish notice of receipt of a petition for a stay under this subpart in the Federal Register.

§ 501.122 Contents.

(a) A petition for a stay shall contain a full and complete statement of all facts believed to be pertinent to the act or transaction for which a stay is sought. The facts shall include, but not be limited to, the criteria listed below in § 501.123(b).

(b) The petitioner may request a conference regarding the application. If the request is not made at the time the application is filed, it must be made as soon thereafter as possible. The request and ERA's determination regarding it will be made in accordance with Subpart C of this Part.

§ 501.123 Evaluation of the Record.

(a) The record in a proceeding on a petition for stay shall consist of the petition and any related documents, evidence submitted at any public proceedings and any other information in the possession of ERA and made part of the record. ERA may investigate and corroborate any statement in the petition or any other document submitted to it and may utilize in its evaluation any relevant facts obtained by its investigations. ERA may solicit or accept submissions from third persons relevant to the petition for stay or other document and a petitioner will be afforded an opportunity to respond to these submissions. ERA, on its initiative, may convene a conference, if, in its discretion, it considers that the conference will advance its evaluation of the petition.

(b) *Criteria.* ERA may grant a stay incident to a proceeding on a petition for modification of a rule or order if the petitioner shows:

- (1) Irreparable injury will result in the event that the stay is denied;
- (2) There is a strong likelihood of success on the merits;
- (3) The denial of a stay will result in a more immediate hardship or inequity to the petitioner than to other persons affected by the proceeding; and
- (4) It would be desirable for reasons of public policy to grant the stay.

§ 501.124 Decision and order.

(a) ERA will issue an order granting or denying the petition for a stay upon consideration of the request and other relevant information received or obtained during the proceeding.

(b) ERA will include in the order a brief written statement setting forth the relevant facts and the basis of the decision, including any appropriate terms and conditions of the stay.

Subpart I—Requests for Interpretation

§ 501.130 Purpose and scope.

This subpart establishes procedures for filing a formal request for an interpretation and the procedures DOE will use to consider the request. Any response, whether oral or written, to a general inquiry, or to other than a formal written request for interpretation filed with DOE, is not an interpretation and merely provides general information that may not be relied upon in any proceeding to determine compliance with the applicable requirements of FUA.

§ 501.131 Filing a request for interpretation.

A proceeding to request an interpretation is commenced by filing a "Request for Interpretation (FUA)." The request must be in writing and must also comply with the general filing requirements stated in § 501.7. Any claims for confidential treatment for any information contained in the request or other related documents must be made pursuant to § 501.7(f). A request for interpretation should be filed with the Assistant General Counsel for Interpretations and Rulings at the address provided in § 501.11.

§ 501.132 Contents of a request for interpretation.

(a) A request for an interpretation must contain a complete statement of all the facts believed to be relevant to the circumstances, acts or transactions that are the subject of the request. The facts must include the names and addresses of all potentially affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in any documents submitted with the request. Copies of relevant contracts, agreements, leases, instruments, and other documents relating to the request must be submitted if DOE believes they are necessary for determination of any issue pending in the proceeding under this subpart. When the request pertains to only one step in a larger integrated transaction, the requesting party must also submit the facts, circumstances, and other relevant information pertaining to the entire transaction.

(b) The requesting party must include in the request a discussion of all relevant legal authorities, rulings, regulations, interpretations and decisions on appeal relied upon to support the particular interpretation he seeks.

(c) DOE may refuse to issue an interpretation, if DOE determines that

there is insufficient information upon which to base a decision.

§ 501.133 DOE evaluation.

(a) The record shall consist of the request for an interpretation and any supporting documents, all relevant evidence presented at any public proceedings, written comments and any information in the possession of DOE that has been made part of the record.

(1) DOE may investigate and corroborate any statement in a request or related documents and may utilize in its evaluation any relevant facts obtained by the investigation. DOE may solicit or accept submissions from third persons relevant to the request for interpretation, or any other document submitted under this subpart, and the person requesting an interpretation will be afforded an opportunity to respond to these submissions.

(2) The General Counsel or his delegate will issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of DOE during the proceeding. DOE's interpretation will, therefore, depend on the accuracy of the factual statements, and the requesting party may rely upon it only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(b) *Criteria.* (1) DOE will base its interpretations as applicable, on the DEOA, and FUA, and the regulations and published rulings of DOE as applied to the specific factual situation.

(2) DOE will take into consideration previously issued interpretations dealing with the same or a related issue.

§ 501.134 Issuance and effect of interpretations.

(a) DOE may issue an interpretation after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

(b) The interpretation will contain a written statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an interpretation is specifically addressed, and other persons upon whom the DOE serves the interpretation and who are directly involved in the same transaction or act, may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Title VII of FUA for any act taken in reliance upon

the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) DOE may at any time rescind or modify an interpretation on its own initiative. Rescission or modification shall be made by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification will include a statement of the reasons for the rescission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

(f) Any person who believes he is directly affected by an interpretation issued by DOE, and who believes that he will be aggrieved by its implementation, may submit a petition for reconsideration of that interpretation to the General Counsel. DOE will acknowledge receipt of all requests for reconsideration, however, this acknowledgement in no way binds DOE to commence any proceedings on the request. If within sixty (60) days of DOE's acknowledgement of the receipt of a request for reconsideration, DOE has not issued either notice of intent to commence a proceeding to reconsider the interpretation, or issued a modification, revision or rescission of the original interpretation, the request for reconsideration is denied. DOE may, in its discretion, issue a formal denial of a request for reconsideration if:

(1) The request has not been filed in a timely manner, and good cause therefore has not been shown;

(2) The person requesting reconsideration is not aggrieved or otherwise injured substantially by the interpretation; or

(3) It is defective for failure to state and to present facts and legal argument that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

Subpart J—Rulings

§ 501.140 Purpose and scope.

DOE may issue rulings in accordance with the provisions of this subpart. DOE will publish each ruling in the *Federal Register* and in 10 CFR Part 518. A person is entitled to rely upon a ruling to the extent provided in this subpart.

§ 501.141 Criteria for issuance.

(a) The General Counsel may issue a ruling whenever:

(1) There has been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations; or

(2) It is determined that it will be of assistance to the public in applying the regulations to a specific situation.

§ 501.142 Modification or rescission.

(a) A ruling may be modified or rescinded by—

(1) Publication of the modification or rescission by DOE in the *Federal Register* and in 10 CFR Part 518; or

(2) Adoption of a rule that supersedes or modifies a prior ruling.

(b) A person shall not be subject to the sanctions or penalties stated in these regulations for actions taken in reliance upon a ruling, notwithstanding that the ruling is subsequently declared to be invalid or no longer applicable. A person may not rely upon a ruling after it has been rendered invalid pursuant to issuance of a superseding rule by ERA, or after it is rescinded or modified by DOE.

§ 501.143 Comments.

You may file a written comment on or objection to a published ruling at any time with the Assistant General Counsel for Interpretations and Rulings at the address provided in § 501.11.

Subpart K—Enforcement

§ 501.160 Purpose and scope.

This subpart provides the procedures by which ERA may initiate enforcement proceedings on its own behalf and the procedures by which complaints may be filed.

§ 501.161 Filing a complaint.

(a) A complaint under this subpart must be submitted in writing over the signature of the person making the complaint in accordance with the general filing requirements stated in § 501.7. ERA will accept oral complaints that otherwise satisfy the requirements of this subpart, but ERA may request written verification.

(b) A complaint shall be filed at the address provided in § 501.11.

§ 501.162 Contents of a complaint.

A complaint must contain a complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint. It must also include the names and addresses of all persons involved (if reasonably ascertainable), a description of the events that led to the complaint, and a statement describing the regulation, ruling, order, rule or interpretation that allegedly has been violated.

§ 501.163 ERA evaluation.

(a) The record shall consist of the complaint and any supporting documents and all other relevant information developed in the course of any investigations or proceedings related to that complaint. ERA may investigate and corroborate any statement in the complaint or related documents submitted, and may utilize in its evaluation any relevant facts obtained by such investigation or from any other source of information. ERA may solicit or accept submissions from third persons relevant to the complaint or other related documents.

(b) *Confidentiality of information.* ERA will treat, as confidential, information received in any investigation of a complaint, including the identity of the complainant and the identity of any other persons who provide information, to the extent such information is exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552. ERA reserves the right to make disclosures that would be in the public interest.

§ 501.164 Decision to initiate enforcement proceedings.

After investigation of a specific complaint or based on any relevant information received or obtained during an investigation, ERA may issue a notice of violation, determine that no violation has occurred, or take such other actions as it deems appropriate. Prior to issuance of a notice of violation, and before commencement of an enforcement proceeding, ERA may transmit a draft of the notice of violation to the potentially affected person in order to promote an informal resolution of the violation.

§ 501.165 Commencement of enforcement proceedings.

(a) Whenever, on the basis of any information available, ERA determines that a person is in violation or about to be in violation of any provision of these regulations, ERA may issue a notice of violation stating, in writing and with reasonable specificity, nature of the violation. An enforcement proceeding commences with the issuance of a notice of violation.

(b) *Contents of the notice of violation.* ERA will set forth in the notice of violation the nature of the violation, the relevant facts, the legal basis that ERA believes establishes the violation for the conclusions reached therein. ERA may also include with the notice of violation a copy of a proposed order. The notice of violation will also state whether or not ERA proposes to assess civil penalties.

(1) If ERA is proposing to assess a civil penalty, a notice of violation will be issued to the violator with an opportunity for a hearing before an Administrative Law Judge, as set forth in § 501.166(a)(1) of this part, before any final determination on the violation and penalty are made by ERA. The recipient of the notice will also be informed of his right to elect to have the procedures of § 501.166(a)(2) apply, in lieu of the hearing, with respect to a final determination on the assessment of any civil penalty.

(2) If ERA is not proposing to assess a civil penalty, the violator will be informed in the notice of violation of an opportunity for a conference, as set forth in § 501.166(b), before a final determination on the violation is made by ERA. ERA may, in its discretion, also provide you with an opportunity for a hearing pursuant to § 501.166(a)(1).

(c) *Service.* ERA will serve the notice of violation in accordance with the provisions set forth in § 501.6.

(d) *Rescission.* If, after issuance of a notice of violation and any related investigation, ERA finds no basis for the belief that a violation has occurred, is continuing to occur, or is about to occur, ERA may rescind the notice of violation by giving written notice to that effect to the recipient.

§ 501.166 Hearings and conferences.

(a) *When a civil penalty is proposed.*

(1) *Hearing alternative in civil penalty assessment proceedings.* Unless elected in writing to have the provisions of paragraph (a)(2) of this section apply, ERA will commence a proceeding to assess the penalty and give an opportunity for a hearing before an Administrative Law Judge pursuant to Section 554 of the Administrative Procedure Act (5 U.S.C. 554), before a final determination on the violation and assessment of a penalty is made.

(2) *Election alternative in civil penalty assessment proceedings.* The recipient of a notice of violation in which a civil penalty assessment has been proposed may elect, in writing, within thirty (30) days of receipt of the notice, to waive the administrative proceedings described in paragraph (a)(1) of this section. ERA will make a determination on the proposed civil penalty assessment and issue a final order to that effect within forty-five (45) days after receiving notice of the exercise of this election.

(b) *When a civil penalty is not proposed—opportunity to request a conference.* If a person has received a notice of violation, in which a civil penalty has not been proposed, he may, within thirty (30) days after receipt of

the notice, request a conference with ERA to discuss the notice. In order to request a conference he must comply with the instructions set forth in the notice.

§ 501.167 Fuel Use Order.

(a) *General.* ERA will issue a Fuel Use Order if, after considering all the information received during the proceeding, ERA determines that a person has committed, is committing, or is about to commit a violation. A Fuel Use Order may include revocation of an exemption.

(b) *Contents.* Any Fuel Use Order issued under this section shall set forth the relevant facts and legal basis of the order and where appropriate, the final penalty assessment and the basis therefore. When an administrative hearing, as provided in § 501.166(a) of this Part, is requested, the order will include the recommended findings and conclusions of the Administrative Law Judge (ALJ) as the basis for the assessment. ERA will make a final determination as to any penalty assessment or other appropriate remedy based upon the recommended findings and conclusions of the ALJ and other information in the record of the enforcement proceeding. The order will be effective upon service, unless otherwise provided therein, or stayed pursuant to § 501.120.

(c) *Service.* ERA will serve a copy of the Fuel Use Order upon any person who was served a copy of the notice of violation, and all parties to any public proceeding on the notice of violation. ERA will place a copy of each final order, on file in the Pacific Information Office described in § 501.12.

(d) *Judicial review.* Any person against whom a penalty is assessed pursuant to § 501.167(b), after a hearing before an ALJ may, within sixty (60) calendar days after the date of the order assessing such penalty, institute an action in the United States Court of Appeals for the appropriate judicial circuit for judicial review of such order in accordance with the provisions of Section 723 of FUA.

Subpart L—Investigations, Violations, Sanctions and Judicial Actions**§ 501.180 Investigations.**

(a) *General.* Pursuant to Section 711 of FUA, the DEOA and in accordance with the provisions of 10 CFR 205.201, ERA may initiate and conduct investigations relating to the scope, nature, and extent of compliance by any person with the rules, regulations, and orders issued by ERA under the authority of the Act, or any order or decree of court relating

thereto, or any other agency action. When the circumstances warrant, ERA may issue subpoenas as provided in Subpart D of this Part. ERA may also conduct investigative conferences in conjunction with any investigation.

(b) Any duly authorized representative of ERA has the authority to conduct an investigation and to take such action as he deems necessary and appropriate to the conduct of the investigation.

(c) *Notification.* If any person is required to furnish information or documentary evidence pursuant to a subpoena or special report order, ERA will, upon written request, inform that person as to the general purpose of the investigation.

(d) *Confidentiality.* ERA shall not disclose any information received during an investigation under this section, including the identity of the person investigated and any other person who provides information, to the extent it is exempt from public disclosure pursuant to 5 U.S.C. 522 and 10 CFR 1004.

§ 501.181 Sanctions.

(a) *General.* (1) A violation of any provision of the regulations issued under the authority of the Act (other than Section 402 of the FUA), or any order, rule, exemption, or permit issued pursuant thereto will be subject to the penalties and sanctions as provided in Subtitle C of Title VII of FUA.

(2) Each day, that any provision of the regulations issued under the authority of the Act or any order, rule, exemption, or permit issued pursuant thereto is violated, constitutes a separate violation within the meaning of the provisions of this section relating to civil penalties.

(b) *Criminal fines.* Any person who willfully violates any provision of these regulations will be subject to a fine of not more than \$50,000 or imprisonment of not more than 1 year, or both, for each violation.

(c) *Civil penalties.* (1) Any person who willfully violates any provision will be subject to the following civil penalty which may be up to \$25,000 for each violation: Any person who operates a powerplant or major fuel burning installation which exceeds the use of natural gas or petroleum allowed by an exemption granted by ERA, will be assessed a civil penalty of up to \$3 per MCF of natural gas or \$10 per barrel of oil that is used in excess of that allowed by the exemption.

(2) ERA may compromise and settle, and collect civil penalties whenever it considers it to be appropriate or advisable.

(d) *Corporate personnel.* (1) If a director, officer, or agent of a corporation willfully authorizes, orders, or performs any act or practice constituting a violation of any provision of the regulations issued under authority of the Act, or any order, rule, or exemption, or permit issued pursuant thereto, he will be subject to the penalties specified in paragraphs (b) and (c) of this section without regard to any penalties to which the corporation may be subject. He will not, however, be subject to imprisonment under paragraph (b) of this section unless he knew of noncompliance by the corporation, or had received from ERA notice of noncompliance by the corporation.

(2) For purposes of this paragraph:

(i) "Agent" includes any employee or other person acting on behalf of the corporation on either a temporary or permanent basis; and

(ii) "Notice of noncompliance" is a final Fuel Use Order issued under § 501.167 of this Part.

§ 501.182 Injunctions.

Whenever it appears to ERA that any person has committed, is committing, or is about to commit a violation of any regulation, order, rule, or exemption issued under the Act, ERA may in accordance with Section 724 of the FUA bring a civil action in the appropriate district court of the United States to enjoin such acts or practices. The relief sought may include a mandatory injunction commanding any person to comply with any provision of such order, regulation, rule, exemption, or permit the violation of which is prohibited by § 724 of the FUA and may also include interim equitable relief.

§ 501.183 Citizen suits.

(a) *General.* A person who believes he is aggrieved by the failure of ERA to perform any nondiscretionary act or duty under the Act may file a "Petition for Action" for ERA to take such action as he may feel to be proper. This petition must be filed at the address provided in § 501.11. The petition must specify the action requested and set forth the facts and legal arguments that constitute the basis for the request and will serve as notice to ERA pursuant to § 725 of FUA for purposes of any citizens suit that may be subsequently filed.

(b) *ERA decision.* Within sixty (60) days of receiving the Petition for Action, ERA will notify the person giving notice under this section that it has instituted the action requested or that other described action is being taken, or that

no action is being taken and state the reasons therefor.

Subpart M—Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes

§ 501.190 Purpose and scope.

(a) If a person operates a:

(1) Powerplant or installation covered by any of the prohibitions of Titles II, III, or IV, with the exception of Title IV, Section 402, or the requirements of Title V of FUA, § 501.191 of this Subpart establishes procedures he must follow for the use of minimum amounts of natural gas or petroleum in order to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public health, safety, or welfare that would result from electric power outages under Section 103(a)(15)(B) of FUA; or

(2) Peakload powerplant or an installation covered by any of the prohibitions of Titles II, III, or IV, with the exception of Title IV, Section 402, or the requirements of Title V of FUA, § 501.192 of this Subpart establishes procedures he must follow for the emergency use of natural gas or petroleum as a primary energy source during a temporary emergency condition under § 404(g) of FUA.

(b) *Explanatory note:* If a person operates a rental boiler as a powerplant or installation covered by any of the prohibitions of Titles II, III, or IV except Title IV, Section 402, or the requirements of Title V of FUA, he may be able to use the provisions of this Subpart for the emergency use of natural gas or petroleum.

§ 501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in Section 103(a)(15)(B) of the Act.

(a) In the event of the occurrence or imminent occurrence of an emergency, or of the occurrence or imminent occurrence of an unanticipated equipment outage in the unit, an owner or operator of a powerplant or installation is automatically permitted to use minimum amounts of natural gas or petroleum in the unit or in a substitute unit to prevent or alleviate the outage or to prevent or alleviate the emergency if he complies with procedures contained in paragraph (b) of this section.

(b) If the owner or operator uses minimum amounts of natural gas or petroleum for purposes specified in this section, he must:

(1) Notify ERA of such use by telegram or telephone within 24 hours after the commencement of such use;

(2) Immediately thereafter confirm such use and describe such purposes in writing, signed by a responsible official of the company; and

(3) File with ERA every thirty (30) days after notification to ERA as provided in paragraph (c)(1) of this section, a progress report describing the status of the emergency or outage condition and the continuing efforts to abate such condition. In appropriate cases, ERA may determine that such a filing is unnecessary.

(c) For purposes of this section only:

(1) An "emergency" is an unanticipated occurrence or threat of imminent occurrence of an emergency which exists only when there is a direct effect on the public health, safety, or welfare which results or would result from an electric power outage;

(2) "Unanticipated equipment outage" shall mean an unexpected outage due to equipment failure.

(3) "Minimum amounts required to alleviate or prevent" shall mean:

(i) For powerplants, the amounts of natural gas or petroleum required to prevent curtailment by the operating utility of noninterruptible electric supply to industrial customers where such utility has, to the maximum extent possible, utilized alternate fuel-fired capacity to prevent such curtailment; and

(ii) For installations, the amounts of natural gas or petroleum required to meet plant protection or human health and safety needs, including services to hospitals, public transportation facilities, sanitation, or water supply and pumping.

§ 501.192 Use of natural gas or petroleum during a temporary emergency condition pursuant to Section 404(g) of the Act.

(a) For purpose of this section only, a "temporary emergency condition" ("emergency") is an unanticipated occurrence which exists when:

(1) For installations, the use of natural gas or petroleum is necessary for purposes of:

(i) Plant protection;

(ii) Preservation of human health; or

(iii) Continued production that would otherwise be reduced as a result of an interruption of alternate fuel supplies, equipment failures, imminent equipment failures or temporary environmental restrictions; and

(2) For peakload powerplants, the operating utility would be required to curtail noninterruptible electric supply to its industrial customers.

(b) Where the owner or operator is eligible to use natural gas or petroleum for emergency purposes, in the alternative, under this section or under

§ 501.191 of this Subpart, he may use the procedures provided in § 501.191.

(c) In the event of occurrence of a temporary emergency condition, the owner or operator is automatically permitted to use natural gas or petroleum in his peakload powerplant or installation or in a substitute unit until the termination of the emergency condition, a period not to exceed twenty-four (24) months, if he:

(1) Notifies ERA by telegram or telephone within twenty-four (24) hours after the commencement of the emergency condition that he requires such emergency use of natural gas or petroleum;

(2) Immediately thereafter confirms such use in writing, signed by the responsible officer of the company; and

(3) Is not notified in writing by ERA during such period that the emergency condition:

(i) Has terminated; or

(ii) Does not otherwise warrant the use of natural gas or petroleum involved.

(d) Every thirty (30) days after notification, as provided in subparagraph (c)(1), the owner or operator must file with ERA a written statement certified by the responsible officer of his company detailing the circumstances of the continuing emergency condition including, a description of the units in which he is using natural gas or petroleum for such condition, and the extent of such use. In appropriate cases, ERA may determine such a filing is unnecessary.

(e) At the end of the first month of the emergency condition the owner or operator must file with ERA a written statement certified by the responsible officer of his company, detailing the plans to end the emergency condition, including an estimate of the time period for which he will be required to operate the facility using natural gas or petroleum as a primary energy source, and the projected extent of such use.

(f) If the emergency condition has terminated, the owner or operator must file with ERA a written statement, certified by the responsible office of his company indicating the day on which the facility returned to normal operation.

(g) The administrative provisions of Section 701 of FUA do not apply to this section.

(h) Any hours of emergency operation allowed under this section shall not be included in a peakload powerplant's operating hours for purposes of penalties set forth in Section 723(b) of FUA, and any reporting requirements or conditions imposed under any peakload or emergency exemption under FUA are independent of any requirements

imposed under this section.

Additionally, any consumption of petroleum or natural gas, during any periods of emergency operation allowed under this section, are independent of any reporting requirements or conditions of use imposed by any exemption granted under FUA.

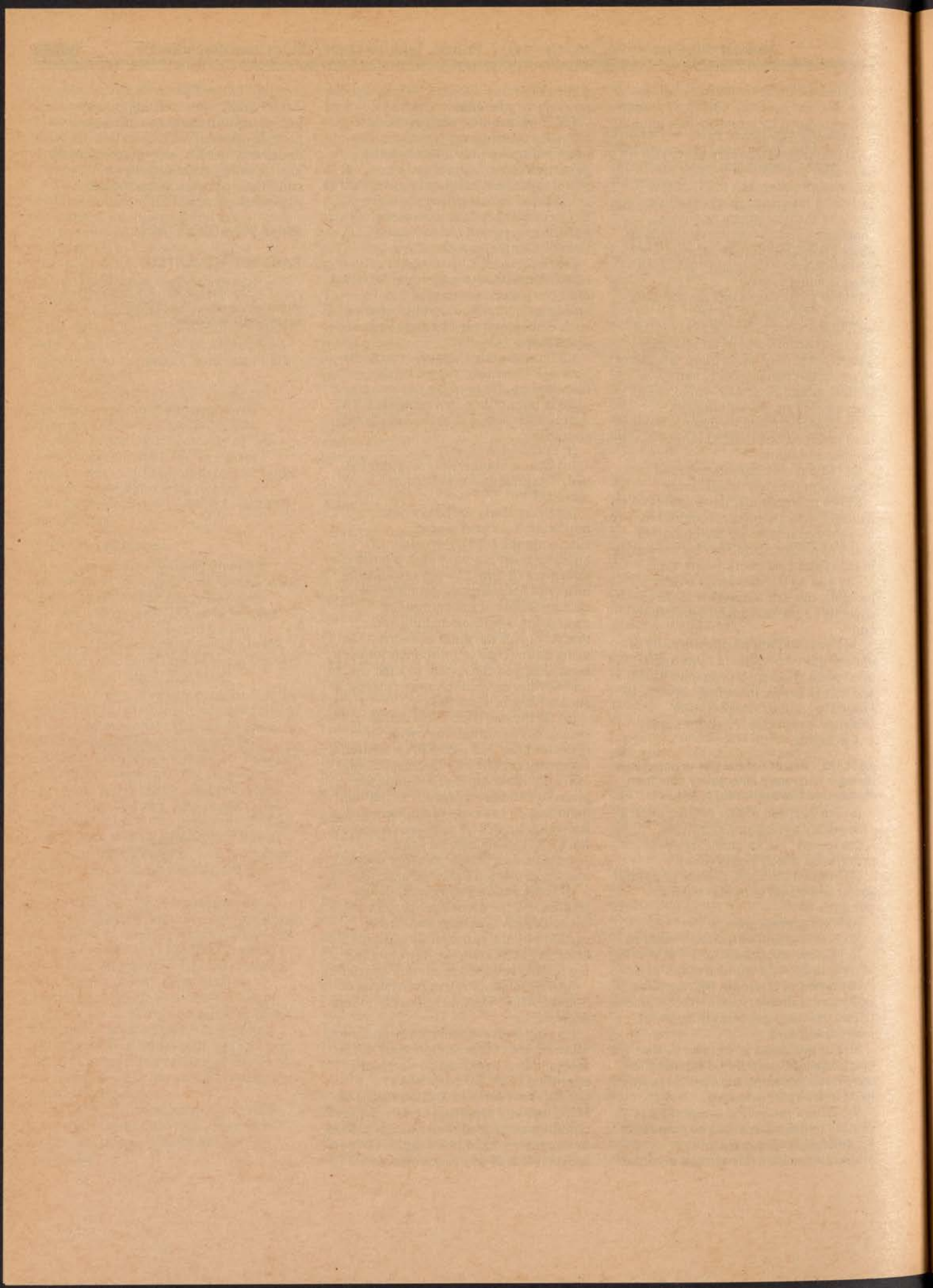
PART 502—[DELETED]

PART 507—[DELETED]

3. Parts 502 and 507 are deleted.

[FR Doc. 80-17269 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M



Test Report Federal

Friday
June 6, 1980

Part V

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act
of 1978; Criteria for Petitions for
Exemptions From the Prohibitions of the
Act—New Facilities

DEPARTMENT OF ENERGY**Economic Regulatory Administration
10 CFR Parts 503, 505**

[Docket No. ERA-R-78-19E]

**Powerplant and Industrial Fuel Use Act
of 1978; Criteria for Petitions for
Exemptions From the Prohibitions of
the Act—New Facilities****AGENCY:** Economic Regulatory
Administration, Department of Energy.**ACTION:** Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this final rule to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), which prohibit the use of petroleum and natural gas by new electric powerplants and certain new major fuel burning installations (MFBI's). This final rule establishes the criteria by which owners and operators of new powerplants and certain new MFBI's may petition for exemptions from the prohibitions of Title II of the Act.

DATES: This final rule shall become effective August 5, 1980, except that §§ 503.5 and 505.5 are revoked June 6, 1980.

FOR FURTHER INFORMATION CONTACT:

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Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 7002, Washington, D.C. 20461, (202) 653-3217.

Robert L. Davies (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, (202) 653-3649.

G. Randolph Comstock (Office of the General Counsel), Department of Energy, Room 6C-087—Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION:**I. Background.**

II. Comments: Part 503—Criteria for Petitions for Exemptions From the Prohibitions of the Act—New Facilities.

III. Procedural matters.**I. Background**

ERA published proposed rules for new facilities on November 17, 1978 and January 29, 1979 (43 FR 53974 and 44 FR 5808, respectively). Comments were

solicited on its proposals and public hearings were held in Boston, Massachusetts; Salt Lake City, Utah; Tampa, Florida; and Lexington, Kentucky.

On May 8, 1979, ERA issued interim rules relating to definitions, administrative procedures and sanctions, and criteria for exemptions. Written comments were solicited by ERA over an extended period. ERA considered numerous comments in response to this solicitation. ERA also reviewed the interim rule in light of actual experience in implementing the regulatory program before issuing this final rule.

ERA is concurrently issuing a final rule setting forth the definitions necessary for the implementation of FUA and the procedures that will apply to certain administrative proceedings implementing FUA.

This final rule sets forth the criteria for petitions for exemptions from the prohibitions on petroleum and natural gas use authorized by the Act.

In preparing this final rule, several parts of the interim rule have been deleted or combined with other parts. Notably the requirement for a Fuels Decision Report has been deleted. Essential requirements previously contained in Part 502 are set out herein as evidentiary requirements for individual exemptions. Former Parts 503 and 505 have been combined and appear in this final rule as Part 503, New Facilities.

II. Comments

Numerous comments and suggestions were received relating to the interim rules, and were considered by ERA in conjunction with its own review. Except in a few instances, if ERA has already addressed an issue in the preambles to the interim rules, ERA will not address the same issue here, and the preamble discussion contained in the interim rules on those issues is incorporated here by reference. The discussion which follows represents ERA's response to comments and suggestions received which were not previously addressed and reflects certain changes from the interim rules made by ERA.

In preparing this final rule, considerable effort has been made to simplify, reorganize, and shorten the text compared to the interim rules, as well as to reduce both evidentiary and reporting requirements associated with many of the various exemptions authorized by the Act. This effort was undertaken, in part, in response to public comments which are referred to in this preamble. Other changes have

been made by ERA in the interest of regulatory simplification.

Many commenters objected to the regulatory requirement imposed by the Fuels Decision Report. In an effort to simplify these regulations, ERA has eliminated such a report. However, essential portions of Part 502 that are necessary for ERA to carry out its responsibilities have been retained in Parts 501 and 503.

ERA has eliminated the categorization of exemptions contained in the interim rule which specified the contents of particular types of petitions. ERA has now identified three categories of exemptions: general use, specified use and limited use. These categories are based upon the type of the exemption rather than the type of evidence required. A list of the requirements for submitting petitions is now set out under each exemption.

Numerous commenters objected to the previously required discussion of the internal corporate decision-making processes as being irrelevant, proprietary, and highly confidential. ERA agrees and has deleted the requirement.

Commenters also objected to the requirements of the Fuels Decision Report with respect to potential conservation measures. In response, ERA has limited the requirement to include only those conservation measures previously taken and studies completed or underway.

Other comments were directed at the appropriateness of requiring a petition for a mandatory permanent exemption to address such topics as petroleum and natural gas consumption, conservation measures, and environmental impact analysis. ERA has deleted such requirements for certain limited use exemptions where a certification alternative is provided. For general use exemptions and other specified use exemptions, ERA believes such information is needed to determine appropriate terms and conditions of an exemption. This is also important as a means of assessing potential oil and gas savings, a primary concern of FUA. In particular, the environmental reporting requirement helps provide ERA with data necessary to fulfill the requirements of the National Environmental Policy Act of 1969, which requires the consideration of the environmental impact of certain Federal actions. ERA has, however, limited the environmental reporting requirements for certain limited use exemptions.

Cost Calculation (§ 503.6)

Numerous comments were received with respect to the cost calculation

employed in sections 503.5 and 505.5 of the interim rules. The cost calculation was to be used by petitioners in petitioning for an exemption based upon the cost of building and operating a unit to burn an alternate fuel.

After considering these comments ERA has determined that it is inappropriate to adopt a final rule with respect to the cost calculation at this time. Sections 503.5 and 505.5 of the interim rule are being revoked as of the publication date of this final rule, and ERA will shortly propose a new rule with respect to the cost calculation for public comment.

General Requirement—No Alternative Power Supply (§ 503.8)

Several commenters objected to the inclusion of rate design measures which could support conservation under the "no alternative power supply" requirement. The comments stated that ERA was indirectly circumventing the Public Utility Regulatory Policies Act of 1978. In the preamble to the interim rule, ERA stated that it did not intend to regulate rate structures either directly or indirectly. ERA will not require petitioners under this final rule to consider rate design measures in demonstrating that an alternative supply of power is or is not available.

Commenters also stated that ERA should not require petitioners to consider purchasing power on a regional basis. Some commenters felt consideration should be limited to a single utility or contiguous system basis. Based on ERA's experience, we believe that a regional basis for determining the availability of firm purchased power set out in the interim rules is correct.

Additionally, concern was expressed that small utilities would be unable to meet this general requirement because they would be unable to demonstrate a reserve margin below 20 percent. Moreover, concern was expressed that there would be anti-competitive impact on small utilities as a result of the requirements of this section.

In response to these comments, ERA will, in a particular case, consider a petition for an exemption where the reserve margin is above 20 percent. While a 20 percent reserve margin is a traditionally accepted planning figure used by the industry, ERA recognizes that a reserve margin above 20 percent may not realistically represent the reliability circumstances for individual petitioners. ERA will allow a petitioner an opportunity to demonstrate that there are other justifiable reasons why no alternative power supply is available.

ERA is aware of the concerns of small utilities with respect to competition

issues and other matters related to the implementation of FUA. We expect that the small utility system study being conducted by ERA's Office of Utility Systems as part of implementation of Section 744 of the Act will address these and other FUA issues as they impact on small utilities.

Some commenters contended that in determining the "reasonableness" of an alternative power supply the comparison of the cost of purchased power with the cost of power generated by the petitioner's proposed plant should be based on the cost of the actual fuel to be used in the proposed plant instead of the cost of imported oil. ERA believes that the use of the imported oil price is reasonable since that standard is employed for purposes of obtaining exemptions under the Act.

Several commenters stated that ERA must consider both short and long-term reliability when evaluating whether a petitioner can obtain an alternative supply of power. ERA intends, when considering whether a petitioner has demonstrated the lack of an alternative supply of power, to consider only the first year the proposed unit would be in operation. If ERA concludes that not building the proposed unit in that year would not impair reliability of service, the petitioner's request for exemption may be denied. ERA believes that this approach addresses the issue of both short and long-term reliability and would not result in an impairment of reliability of service. The petitioner may submit a petition for a new unit to commence operation in a subsequent year which would permit construction in time to avoid an impairment of reliability of service. This is based on the observation that even a long-term reliability problem must begin in some specific year. Once a petitioner has shown that a reliability problem will exist in any given year before an alternate fuel fired unit could be built, ERA will grant an appropriate exemption to commence in that particular year.

If the utility's proposed unit would not become operational until after the time an alternate fuel fired unit could be built, ERA believes that it is impossible to show that purchased power would be unavailable for the first year of scheduled operation.

General Requirement—Use of Mixtures (§ 503.9)

Based upon ERA's experience in implementing the regulatory program under FUA, it has been determined that clarification of the general requirements relating to the use of a mixture is appropriate. The final rule contains a

greater degree of specificity with respect to the evidentiary requirements relating to issues of economic or technical infeasibility of using a mixture.

General Requirement—Use of Fluidized Bed Combustion (§ 503.10)

Commenters stated that the fluidized bed combustion (FBC) feasibility finding that ERA is required to make under § 503.10 should be site specific, and that it is impossible to make the feasibility finding on a generic basis. Moreover, commenters contended that ERA has shifted the burden of proof with respect to such findings to the petitioner.

As previously discussed in the Preamble to the Interim Rules (44 FR 28950, May 17, 1979, at page 28961), in conjunction with DOE's Offices of Fossil Energy and Resource Application, ERA will monitor the development of fluidized bed technology. Based on criteria to be determined, ERA will make a feasibility finding in a future rulemaking. The finding initially will be limited in scope and applicability, and will describe the parameters of performance and applicability of the FBC process.

The intention will be to specify as accurately as possible the circumstances under which FBC is feasible. Petitioners with facilities that do not fall within the range described in the finding will not be required to consider FBC, while those with facilities within the range will be subject to the finding. Thus, only those petitioners who are most likely able to utilize FBC will be subject to the feasibility finding. However, prior to and after any general feasibility finding, if necessary, ERA reserves the right to make site-specific findings.

General Requirement—Alternative Site (§ 503.11)

One commenter suggested that, for purposes of this requirement, ERA should consider on an equal basis with economic factors other factors such as distance from load centers, technical feasibility and legal difficulties. While the cost test will remain the primary vehicle for demonstrating the viability of using alternate fuels at alternative sites, ERA is revising the regulations to incorporate other ways by which a petitioner may demonstrate that alternate fuels at alternative sites are not feasible. Specifically, § 503.11(a)(2) has been revised so that a petitioner may demonstrate infeasibility at alternative sites through (a) general use permanent exemptions, or (b) other reasons.

Other commenters argued that additional siting studies will be costly and time-consuming, and suggested that

ERA require only one alternative site to be evaluated or, that small utilities be exempt from the requirement. ERA believes that it is unrealistic to set a fixed number of sites to be evaluated. The number of sites to be examined can be discussed in the prepetition conference.

One commenter stated that the cost used in evaluating the use of alternate fuels at alternative sites should be significantly less than the "substantially exceeds" cost test which is required with respect to the proposed site. However, ERA believes that using the same cost test for alternative sites is reasonable and provides a proper comparison with the use of the "substantially exceeds" test at the proposed site.

Terms and Conditions (§ 503.12)

Commenters identified a number of areas in which it was asserted ERA could not use its terms and conditions authority. Specifically it was suggested that ERA lacked authority to:

- (a) Impose terms and conditions applicable to units other than those which are the subject of the exemption petition;
- (b) Require the replacement of inefficient units;
- (c) Require the use of specific fuels or construction of facilities with specific types of fuel burning capability;
- (d) Require the use of mixtures;
- (e) Impose the use of environmental control measures beyond those otherwise required by law.

As stated in the preamble to the interim rules, Sections 214 and 314 of FUA give the Secretary wide latitude in prescribing terms and conditions as he deems appropriate, so long as they are reasonable and consistent with the purposes of the Act. ERA will consider whether any of the types of terms and conditions described above should be imposed on a case-by-case basis.

In response to numerous comments and in order to simplify the requirements for obtaining certain exemptions, ERA has instituted a class of limited use of exemptions which will be granted upon certification that use of the proposed unit will be limited. For these limited use exemptions the petitioner must agree to be bound by certain standard terms and conditions.

Commenters also suggested that ERA lacks the authority to revoke permanent exemptions for violations of terms and conditions. In the case of at least one type of exemption, the permanent exemption for intermediate load powerplants (FUA Sections 212(h), 312(g)), ERA is required to terminate a permanent exemption upon certain

findings. This establishes the principle that a "permanent" exemption need not last for the life of the facility. ERA believes the terms and conditions authority is broad enough to permit ERA to limit the periods and circumstances under which an exemption would be operative, or, for violations of terms and conditions to terminate a permanent exemption. ERA has explicitly stated this authority in its regulations to deter violations of the provisions of an exemption or a compliance plan.

Environmental Impact Analysis (§ 503.15)

The Environmental Protection Agency (EPA) has suggested that a number of items be added to this section, including the name, address, and phone number of an office in DOE where the guidelines for environmental reports may be obtained. Section 503.15 provides the Federal Register citation for the guidelines, and this is deemed to be sufficient information. EPA asks also that a request for environmental monitoring, construction, and operation impacts information specifically be included. However, the purpose of § 503.15 is to state the requirement for an environmental impacts analysis and to briefly summarize what the analysis must contain. In actually preparing the analysis, the petitioner should refer to the guidelines themselves which contain a detailed description of informational requirements.

EPA also would like § 503.15 to require an analysis of conservation as an alternative. This information is not requested in the environmental guidelines as an independent alternative to the use of alternate fuels and the no-build alternative. Conservation measures are often included as terms and conditions of an order granting an exemption and should be considered, for purposes of the National Environmental Policy Act of 1969, (NEPA), as a subset of the basic description of the facility or of the examination of one or more alternate fuels, but conservation does not in itself form a separate alternative to be analyzed later in submitting a petition.

Should it become apparent later in the process that conservation presents a reasonable alternative, it will be documented for NEPA purposes; however, this decision will be made on a case-by-case basis.

Finally, EPA recommends that § 503.15 include a description of regulatory requirements relating to noise. We agree, and this requirement has been added.

The environmental reporting requirement for limited use

exemptions—fuels mixture of 25 percent or less petroleum or natural gas, peakload powerplants, certain scheduled equipment outages, emergency purposes, and automatic exemption based on cost for units operated on more than 600 hours per year—has been changed to reflect the Department of Energy's anticipated proposal to categorize these actions as normally not requiring further analysis for NEPA purposes, as contemplated by the Council on Environmental Quality's NEPA regulations (40 CFR Part 1500 *et seq.*). Those regulations allow for a categorical exclusion whereby an agency may through its own NEPA procedures determine that a category of actions does not have a significant effect on the human environment. However, the listing of certain classes of actions which are categorically excluded from NEPA only raises a presumption that any such actions will not significantly affect the environment. For those circumstances where ERA has reason to believe that a significant impact could arise from the grant or denial of a limited use exemption, DOE's NEPA guidelines (10 CFR Part 1021 *et seq.*) provide that individual proposed actions will be reviewed to ascertain whether an environmental assessment or environmental impact statement would be required for any individual action which is listed in Subpart D of the guidelines as categorically excluded from NEPA. To assist us in making this determination, we are requiring 1) that a petitioner for any of these exemptions certify that he will comply with all applicable environmental permits and approvals prior to operating the facility, and 2) that he complete an environmental checklist designed to determine whether the facility in question will have an impact in certain areas regulated by specified laws which impose consultation requirements on DOE. This will allow us to determine that no significant impact will result, or that the categorical exclusion does not apply.

It should be stressed, however, that DOE has not at this point categorically excluded the above exemptions. Before doing so DOE must amend its NEPA guidelines, allowing in the process for public notice and comment. In the event that such amendment does not take place, the portions of these regulations dealing with NEPA compliance for limited use exemptions would be revised accordingly.

Lack of Alternate Fuel Supply (§§ 503.21 and 503.32)

For this exemption ERA has created an alternative evidentiary submission

applicable to MFB's which will be operated less than 600 hours per year, such as auxiliary units for powerplants. In such cases, the petitioner, will be granted an exemption based on a certification that (a) the use of the unit will be so limited, and in the case of permanent exemptions, (b) only the lowest grade of petroleum available and feasible will be used, and (c) any necessary environmentally related terms and conditions will be met.

One commenter pointed out that in § 505.21 (Lack of alternate fuel supply . . . Temporary Exemptions for New Powerplants), the paragraph specifying a maximum duration of ten years for this exemption had been inadvertently omitted. This has been corrected by adding § 503.21(e) which specifies that this temporary exemption may not exceed ten years taking into account any extensions and renewals.

Environmental Exemption (§§ 503.23 and 503.34)

A number of commenters said that eligibility for this exemption should not be based solely on the capacity to physically achieve applicable environmental standards, and that instead ERA should take costs of compliance into consideration. However, based on experience under the interim regulation, ERA believes that the appropriate test for obtaining an environmental exemption should continue to be a showing of physical impossibility of compliance with environmental requirements. FUA provides another exemption—lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum—in which economic considerations relating to the cost of environmental compliance may be raised.

Some commenters suggested that ERA establish guidelines for applicable technologies which can be utilized at a reasonable cost. This goes beyond ERA's responsibilities in implementing the FUA. Environmental compliance must be examined in the context of available pollution control equipment which would provide an appropriate reduction of pollutants, since best available technology is evolving, and it is the responsibility of the petitioner to supply this information as a part of his petition.

One commenter suggested that a petitioner should be allowed to make some best estimate projections rather than detailed analysis of environmental impacts. Each request for an environmental exemption will be handled on a case-by-case basis, and the quality of evidence submitted will be

examined for its adequacy and completeness. Any questions regarding the nature and amount of evidence required for this exemption are best raised at the prepetition conference.

Several comments asserted that denial of an environmental permit by a State or Federal agency should be sufficient proof to obtain this exemption. ERA believes that the denial of a Federal or State environmental permit is but one basis upon which a case for an environmental exemption can be made, but is not dispositive evidence. The scope of the inquiry of permitting agencies—which do not, for example, consider as a means of compliance the burning of alternate fuels or the use of alternate technologies—is different than ERA's inquiry under FUA. In judging the adequacy of any submission, ERA will require evidence that the petitioner considered all reasonably available alternate fuels and all reasonable methods of compliance.

Several commenters, including the Environmental Protection Agency, objected to the requirement that a petitioner attempt to investigate available regulatory options, including variances and State Implementation Plan revisions, before any exemption is granted. We continue to believe that inquiry into all options, including variances and SIP revisions, is clearly contemplated by FUA. Our rationale for this determination was extensively discussed in the preamble to the interim regulations (44 FR 28963) and is unchanged. In the alternative, EPA suggested that the regulations be amended to state that the absence of this information will not preclude approval of an exemption request. We disagree. We feel that this is tantamount to deleting this requirement. Any statement to this effect would no doubt ensure that this information would not be included by any applicant.

One commenter said that the environmental exemption should be automatically approved whenever a petitioner demonstrates that it is located in a nonattainment or prevention of significant deterioration (PSD) area. The final rule does not include such a provision, since the Clean Air Act and its regulations provide procedures by which new growth may be allowed in either dirty or clean air areas, and it would be inconsistent with FUA to reserve such growth to oil or gas fired facilities. These available regulatory options, including variances and SIP revisions, must be explored by facilities seeking to locate in nonattainment or PSD areas.

Future Use of Synthetic Fuel (§ 503.24)

Commenters expressed concern about the need for adequate criteria for determining what will be considered a "binding contract" and whether a contract should be considered binding, even if conditioned upon receiving a DOE exemption.

ERA recognizes that sellers of synthetic fuels will include protective clauses in their contracts. Consequently, the presence of reasonable conditions in a contract for purchase of synthetic fuels will not detract from its being considered binding.

An exemption may be granted under this section on the basis of a certification. In response to the suggestion of commenters, ERA has limited the amount of information which is required to be submitted in support of a petition to a description of the synthetic fuel proposed to be used.

The compliance plan contemplated by this exemption has been split into a "preliminary" and "final" compliance plan. The preliminary compliance plan which is to be submitted with the petition shall include a demonstration of the petitioner's good faith commitment to use synthetic fuels. The synthetic fuel exemption may be granted on the basis of a preliminary plan, but will not become effective until acceptance by ERA of the final plan which must include copies of binding contracts and a list of milestones toward synthetic fuel use.

Public Interest Exemption (Section 503.25)

In commenting on this section of the interim rule the Federal Trade Commission noted that there was some ambiguity with respect to the policy note regarding the concept of the public interest as it pertains to the use of alternate fuels and as it pertains to the basis upon which an exemption may be granted or denied. ERA agrees and has adopted as part of the policy note in the final rule the recommendation provided by the FTC.

ERA received comments on the temporary public interest exemption urging the deletion of the required demonstration relating to the petitioner's inability to comply with the applicable FUA prohibitions *except in extraordinary circumstances*. ERA agrees that this standard may have been too restrictive, and has deleted the requirement from this section.

Several commenters objected to the requirement of a fuel mixture demonstration under § 503.25(c)(2). Under that section, petitioners had to show that the use of a fuel mixture for

which an exemption would be available (under § 503.38) would not be technically or economically feasible during the period of the requested public interest exemption. ERA reviewed these comments and has removed the mixtures requirements to expedite the exemption process. However, ERA reserves the right to consider whether use of a mixture is feasible as part of its public interest consideration in specific cases.

One commenter called attention to a perceived need for ERA to establish a categorical temporary public interest exemption for facilities assigned a high priority curtailment status under the Natural Gas Policy Act of 1978 (NGPA). ERA has concluded that a high-priority status does not justify ERA's establishing a blanket public interest exemption for those facilities. Petitions requesting public interest exemptions on these grounds will be decided on a case-by-case basis.

Lack of Alternate Fuel Supply (§ 503.31)

In the preamble to the interim rule, ERA required that the petitioner solicit at least five bids from suppliers who could reasonably be expected to supply an adequate and reliable supply of alternate fuel.

The comments received on this requirement stated that the five-bid requirement was unreasonable and that the number of bids should be determined on a case-by-case basis.

ERA believes that maintaining the minimum five-bid requirement for petitioners for permanent exemptions is reasonable. Determining the appropriate number of bids on a case-by-case basis would unnecessarily delay the processing of the exemption petition. However, recognizing that there may be circumstances when it may not be possible to obtain five bids, ERA will accept fewer upon a demonstration that there is reasonable justification.

Capital Availability Exemption (§ 503.35)

Section 212(a) of the Act requires ERA to grant a permanent exemption from the Act's prohibitions due to the inability of a petitioner to obtain adequate capital to finance an alternate fuel-capable unit.

Several of the commenters stated that ERA has restricted the availability of the exemption by requiring that utilities demonstrate that the appropriate regulatory authority cannot take necessary action to permit the utility to raise the required additional capital. In recognition of the size distinction set forth in Section 744 of the Act, ERA has retained this requirement only for

utilities which have a total system generating capacity greater than or equal to 2000 megawatts.

Permanent Exemptions for State and Local Requirements (§ 503.36)

Several commenters suggested that ERA is not authorized to require that a general use exemption be unavailable as an eligibility requirement to obtain this exemption. In the case of installations, ERA agrees and therefore it has been deleted.

Several commenters stated that the public interest analysis should be limited to an investigation to determine if any evasion of the Act was intended. ERA has concluded that the information required by the interim rule is necessary to ascertain whether there was collusion and if granting the exemption is in the public interest. Therefore, ERA has not limited these information requirements as suggested.

Several commenters stated that local and regional requirements of an environmental nature should be considered by ERA as a basis for this exemption. ERA agrees and believes that this section adequately provides for such consideration.

Cogeneration (§ 503.37)

In light of the public comments, ERA has decided to publish another Notice of Proposed Rulemaking which will provide a simpler procedure to obtain exemptions where cogeneration would result in oil or gas savings. Pending this new rulemaking, ERA will continue to consider petitions under the interim rule regarding this exemption, published at 44 FR 28950, 28994 and 29014 (May 17, 1979).

Permanent Mixtures Exemption (§ 503.38)

Several commenters addressing the permanent mixtures exemption for MFBI's suggested that there is no statutory basis for ERA's inclusion of those amounts of petroleum or natural gas excluded from the "primary energy source" by definition (§ 500.2(a) of the interim rule; Section 103(a)(18)(A) of FUA) in the 25 percent minimum of petroleum or natural gas proposed which would be used in a mixture. (§ 500.28(b) of the interim rule). ERA agrees with this comment. However, as a matter of statutory interpretation, ERA has concluded that the amount of fuel contemplated by Section 105(a)(18)(A) of the Act and the minimum amount of natural gas and petroleum provided by a mixtures exemption would be used for the same purposes.

Therefore, the final rule contains a provision that no fuel will be excluded

from the definition of primary energy source where a mixtures exemption has been granted, since ERA has determined that the minimum amount of natural gas or petroleum provided by a mixtures exemption to maintain reliability of operation, consistent with maintaining a reasonable level of full efficiency is in lieu of the minimum amount required for unit ignition, start-up, testing, flame stabilization and control uses.

One commenter noted that minimum amounts of petroleum or natural gas used for emergency purposes should not be included in the mixtures calculation. ERA notes that the rule so provides.

ERA has clarified treatment of petitions with respect to installations for which a mixture is proposed containing 25 percent or less natural gas or petroleum. For such cases, ERA has established a certification alternative where the petitioner need only certify that annual use of natural gas or petroleum will be 25 percent or less, and that he will obtain all applicable environmental permits prior to commencement of operations.

Standard terms and conditions have been established for the certification alternative. These include (a) a 25 percent limit on oil and gas use; (b) insulation and maintenance requirements; (c) required use of only the lowest grade of petroleum available and feasible; and (d) any environment related terms and conditions which ERA deems necessary for it to impose in order to fulfill its obligations under various environmental requirements.

A commenter suggested that a streamlined exemption for new coal-fired units that can operate at a very low firing rate on gas or oil be established. The mixtures exemption is available to cover such situations.

Emergency Exemption (§ 503.39)

ERA has simplified the criteria and the procedures for requesting this permanent exemption. The final rule requires a certification from a duly authorized officer that (1) the operation of a unit under the exemption will occur only in accordance with the definition of emergency; (2) use of mixtures is not economically or technically feasible; and (3) that all applicable environmental permits will be obtained prior to commencement of operations. The petitioner is also required to provide a limited amount of specific information relating to environmental matters. For a powerplant, a petitioner must demonstrate that despite reasonably good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a

reasonable cost without impairing short-run or long-run reliability.

The final rule also requires that an annual report describing the energy use and a breakdown of monthly fuel consumption be filed at the end of each 12-month period from the effective date of the exemption.

Standard terms and conditions have been established in the case of petitions for emergency exemptions. These include (a) a requirement that operation of the unit will occur only in accordance with the definition of "emergency"; (b) insulation and maintenance requirements; (c) required use of only the lowest grade of petroleum available and feasible and in the case of powerplants, construction with the capability to use the lowest grade petroleum available; and (d) any related terms and conditions which ERA deems necessary for it to impose in order to fulfill its environmental obligations.

Reliability (§ 503.40)

ERA has initiated a change in the regulations to remove the duplication of the demonstrations required by the "no alternative power showing" and the reliability exemption. Under the interim regulations a petitioner for a reliability exemption was required to meet the evidentiary requirements relating to the alternative supply of power (§ 503.8), as well as for the reliability exemption (§ 503.40). The final regulations have been revised to indicate that if a petitioner applies for a reliability exemption, the demonstration for that exemption will satisfy the requirements of § 503.8.

Several commenters suggested that the loss of load criterion for large pools or interconnections should be one day in ten years rather than the standards provided in the interim rule. The commenters contend that the one day in ten years standard would be in line with current industry practice for measuring reliability. While this industry standard may be appropriate for utility construction planning purposes, it does not take appropriate cognizance of the objectives of the Fuel Use Act. Therefore, ERA has retained in these regulations the standard as stated in the interim regulations. A more extensive discussion of this issue is contained in the preamble to the interim rules at 44 FR 28968 (May 17, 1979).

ERA also noted that while a petitioner may use the loss of load probability (LOLP) technique, computed on a regional basis to calculate impaired reliability, this is not the exclusive criterion which ERA will consider in determining eligibility for the exemption. This exemption specifically allows a

petitioner to demonstrate impaired reliability using criteria other than LOLP.

One commenter noted that for purposes of calculating LOLP, ERA should consider all occurrences of inadequate generation on a given day to constitute a "day" of outage. ERA agrees, and has inserted a note following § 503.40(a)(2)(iii) dealing with the LOLP calculation. The note states that when a capacity deficit occurs one or more times in one day, that event constitutes a one day loss of load.

Several commenters suggested that ERA should permit the continued use of oil and gas beyond the exemption period if doing so would reduce a system's consumption of oil and/or gas. The commenters further added that this would encourage greater use of combined cycle units. ERA recognizes that in some cases an extension of the exemption period may be appropriate and will entertain such requests from petitioners on a case-by-case basis.

Peakload Powerplants (§ 503.41)

Several commenters felt that ERA's requirement that peakload units be used solely to meet peakload demand exceeds the bounds of administrative discretion given to ERA by Congress in FUA. It was noted that Congress defined the term "peakload powerplant" in terms of annual generation of electricity (the equivalent of 1500 hours at design capacity during any twelve-month calendar period) expressed in kilowatt hours. The commenters believe that ERA has no authority to redefine or to replace this statutory definition with another definition based on the type of demand for the electrical generation. Furthermore, the commenters pointed out that peaking units have historically been used for other purposes.

In response to these comments, ERA notes that the Conference Report states that, in order to use petroleum or natural gas for peakload purposes and to build a peakload powerplant without the capability to use coal or another alternate fuel as a primary energy source, a petitioner must certify that the proposed powerplant will operate solely for peakload purposes. The certification is to be made in the form prescribed by ERA and will run for the life of the powerplant. Accordingly, ERA may require the petitioner to certify that the use of the powerplant is to meet peakload demand. Regarding the other uses for which peakload powerplants have been historically used, ERA notes that other exemptions, as well as the emergency provisions of Part 501, Subpart M, may be available to cover circumstances such as forced outages,

maintenance periods, refueling down time, adverse periods of hydro operation, fuel shortages, emergencies on neighboring systems, and other types of emergencies.

Comments concerning the reporting requirement contained in the interim rules asked ERA to phrase this requirement in terms of kilowatt hours of generation rather than in actual hours of generation so that this subsection will be consistent with the FUA definition of peakload powerplant. ERA agrees, and the final rule has been revised accordingly.

Several commenters recommended that the final regulations acknowledge the exception from the penalty provisions of the Act. ERA has done so in this final rule for emergency use of a peakload unit.

Some of the comments received recommended that ERA grant system-wide peakload exemptions that would allow for the use of a single unit in excess of the 1500 hour requirement, but not in excess of an amount equal to 1500 kilowatt hours of electrical generation times the combined design capacity of all of the peaking units in the system. ERA is unable to adopt this approach because FUA is a unit specific statute and cannot be made applicable to systems without legislative modification of the existing statutory provisions.

Some of the commenters objected to the distinction that ERA has drawn with respect to units other than combustion turbines for peakload use. Since combustion turbines are more efficient for peakload use than other types of units, ERA believes that it is appropriate to examine an asserted need for a noncombustion turbine unit for peaking purposes, in light of factors which offset the higher operating costs associated with combustion turbines and tend to encourage their installation and use. Such factors include the relatively short period of time for installing such capacity (roughly 18 months versus several years for baseload capacity) and differences in investment costs.

After considering the many comments that favored the granting of the peakload exemption upon certification, in the absence of special circumstances requiring additional information, a petition for a peakload exemption for a combustion turbine unit will be granted based on the petitioners certification that (a) operation will be limited to peakload purposes, (b) that the unit will not exceed the 1500 kilowatt hours limit, (c) that all applicable environmental permits will be obtained prior to commencement of operations, and (d) if natural gas is to be used, submission of a certification by the Administrator of

the Environmental Protection Agency. The petitioner is also required to provide a limited amount of specified information relating to environmental matters.

ERA has added a new subsection setting forth standard terms and conditions for a peakload exemption for combustion turbines based on a certification. These conditions include (a) limitations in kilowatt hour production; (b) certification of those hours each month in which the petitioner's hourly load as peakload hours will exceed 80 percent of the standard monthly maximum hourly load; (c) required use of only the lowest grade of petroleum available and feasible; and (d) any terms and conditions which ERA deems necessary in order to fulfill its environmental obligations.

One commenter recommended that ERA include in its peakload exemption regulations a heat rate limitation of 10,000 Btu's per kilowatt hour for peakload gas turbine powerplants, because gas turbine regenerators are readily available which would make practical gas turbine powerplants with heat rates of 9800 Btu's per kilowatt hour or less. The commenters believed that such an addition to the regulations would encourage the use of this equipment with a resulting 15-30 percent reduction in fuel use. ERA believes that regenerators require additional study and consideration, and therefore the recommendations regarding heat rate limitations for peakload powerplants have not been adopted.

Intermediate Load Powerplants (§ 503.42)

One commenter noted that reporting requirements should be expressed in terms of kilowatt hours of generation, not actual hours, in order to be consistent with the statutory definition of an intermediate load powerplant. ERA has accepted this comment and revised § 503.42 accordingly.

In the preamble to the interim regulations, ERA invited comments concerning an alternate approach for interpreting the phrase "equivalent capacity" in Section 212(b)(1)(B) of the Act. ERA received numerous comments criticizing the suggested alternate approach, and has therefore decided to retain the "equivalent capacity" concept in this final rule.

Several commenters objected to the requirement under § 503.42 (b)(7) that a petitioner for the intermediate load exemption must identify the specific synthetic fuels that the proposed unit will be designed to use. These commenters stated that the Act does not require the study of a particular

synthetic fuel; rather, it requires the facility to be constructed with general synthetic fuel capability. ERA intends to require petitions for the intermediate load exemption to only identify the types of synthetic fuel that the unit is being designed for along with the units design specifications.

Permanent Exemption for Scheduled Equipment Outage (§ 503.43)

In the interim regulations we stated that if the annual scheduled outages did not exceed 21 days, the petitioners would not have to conduct an alternate fuels search. Upon consideration of comments, ERA has modified the regulations so that if projected use of the proposed unit does not exceed an average of 28 days per year over any three-year period, the petitioner need only submit a certification with certain specified terms. If total use exceeds this level of use, the evidentiary requirements have been left substantially unchanged.

Standard terms and conditions have been established in the case of petitions for scheduled outage exemptions which are obtained by certification. These include (a) a maximum limit on use of the unit for scheduled outages purposes only; (b) insulation and maintenance requirements; (c) required use of only the lowest grade of petroleum feasible and available; and (d) any terms and conditions which ERA deems necessary for ERA to fulfill its environmental obligations.

III. Procedural Matters

A Final Environmental Impact Statement (FEIS) was prepared pursuant to the National Environmental Policy Act (NEPA). The FEIS may be obtained from ERA, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Under Executive Order No. 12044 and Department of Energy Implementing Order 2030.1, a final regulatory analysis shall be made available to the public at the time that final rules are adopted, unless a waiver has been granted by the Secretary or Deputy Secretary. The Deputy Secretary has granted such a waiver since the regulatory analysis as prepared is devoted almost entirely to the cost calculation, which will be the subject of a new proposed rule to be issued shortly.

The final regulatory analysis relating to this final rule will be made available in conjunction with the notice of proposed rulemaking on the cost calculation.

These final rules must be submitted to the Office of Management and Budget (OMB) for clearance under the

provisions of the Federal Reports Act. Any compliance with the data collection provisions of these final rules may require revision or additions as a result of OMB's action.

(Department of Energy Organization Act, Public Law 95-96; Powerplant and Industrial Fuel Use Act of 1978, Public Law 95-620, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 503 as amended, of Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, titled "Alternate Fuels," is hereby adopted as a final rule and is effective on [60 days after date of publication].

10 CFR 503.5 and 505.5 are revoked upon publication of this final rule. The remaining provisions of 10 CFR Part 505, except for § 505.27 (Cogeneration), are deleted on the effective date of this final rule.

Issued in Washington, D.C., May 30, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory
Administration.

1. Section 503.5 of the interim rule (published at 44 FR 28978, May 17, 1979) is revoked, effective June 6, 1980.

2. Section 503.37 (Cogeneration) of the interim rule remains in effect. The Economic Regulatory Administration intends to issue a Notice of Proposed Rulemaking before issuing final regulations implementing the Cogeneration Exemption. Section 503.37 will remain in effect until superseded by a final rule.

3. The remainder of Part 503, including the Part heading, is adopted as final and revised to read as set forth below, effective August 5, 1980.

PART 503—NEW FACILITIES

Subpart A—Prohibitions

- Sec.
503.1 Purpose and scope.
503.2 Prohibitions (powerplants).
503.3 Prohibitions (installations).

Subpart B—General Requirements for Exemptions

- 503.4 Purpose and scope.
503.5 Contents of petition.
503.6 Cost calculations for new facilities.
[Reserved]
503.7 State approval—general requirement for new powerplants.
503.8 No alternate power supply—general requirement for certain exemptions for new powerplants.
503.9 Use of mixtures—general requirement for certain permanent exemptions.
503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.
503.11 Alternative sites—general requirement for permanent exemptions for new powerplants.

Sec.

- 503.12 Terms and conditions; compliance plans.
- 503.13 Conservation measures.
- 503.14 Petroleum and natural gas consumption.
- 503.15 Environmental impact analysis.
- 503.16 Fuels search.

Subpart C—Temporary Exemptions for New Facilities

- 503.20 Purpose and scope.
- 503.21 Lack of alternate fuel supply.
- 503.22 Site limitations.
- 503.23 Inability to comply with applicable environmental requirements.
- 503.24 Future use of synthetic fuels.
- 503.25 Public interest.

Subpart D—Permanent Exemptions for New Facilities

- 503.30 Purpose and scope.
- 503.31 Lack of alternate fuel supply for the first 10 years of useful life.
- 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.
- 503.33 Site limitations.
- 503.34 Inability to comply with applicable environmental requirements.
- 503.35 Inability to obtain adequate capital.
- 503.36 State or local requirements.
- 503.37 Cogeneration.
- 503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.
- 503.39 Emergency purposes.
- 503.40 Permanent exemption for powerplants necessary to maintain reliability of service.
- 503.41 Peakload powerplants.
- 503.42 Intermediate load powerplants.
- 503.43 Scheduled equipment outages for installations.
- 503.44 Product or process requirements [Reserved].

Authority: [Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267, September 15, 1977.

Subpart A—Prohibitions**§ 503.1 Purpose and scope.**

This subpart sets forth the statutory prohibitions imposed by the Act upon new powerplants and major fuel burning installations (MFBI's). The prohibitions in this subpart apply to all new electric powerplants and MFBI's unless an exemption has been granted by ERA under Subparts C and D of this Part. Any person who owns, controls, rents, leases or operates a new powerplant or MFBI which is subject to the prohibitions may be subject to sanctions provided by the Act of these regulations.

§ 503.2 Prohibitions (powerplants).

(a) Section 201 of the Act prohibits, unless an exemption has been granted under Subparts C or D of this Part, the following:

(1) The use of petroleum or natural gas as a primary energy source in any new electric powerplant; and

(2) The construction of any new powerplant without the capability to use an alternate fuel as a primary energy source.

(b) For purposes of the prohibition set forth in paragraph (a)(2) of this section a powerplant will be considered to be constructed with the capability to use an alternate fuel if it is able to use, in compliance with applicable environmental requirements, an alternate fuel as a primary energy source at the time it becomes operational or at the expiration of a temporary exemption.

§ 503.3 Prohibitions.

(a) *Prohibition on the Use of Natural Gas or Petroleum as a Primary Energy Source in Boilers.* Section 202 (a) of the Act prohibits, unless an exemption has been granted under Subpart C or D of this Part, the use of petroleum or natural gas as a primary energy source in any new MFBI which consists of a boiler.

(b) *Prohibition on the Use of Natural Gas or Petroleum as a Primary Energy Source in Nonboilers.*—(1) *Prohibition by Rule.*

(i) ERA may prohibit, by issuance of a rule, the use of petroleum or natural gas as a primary energy source by certain prescribed categories of new MFBI's which consist of a combustion turbine unit, combined cycle unit or internal combustion engine.

(ii) In any such rulemaking proceeding, ERA will consider any special circumstances or characteristics of the category of such MFBI's that would be prohibited from using natural gas or petroleum as a primary energy source. Factors to be considered include the overall technical capability of units within the category to burn an alternate fuel, as well as the size and geographic location of such units. ERA will consider all other circumstances, characteristics, and factors it deems relevant and appropriate that are brought to its attention.

(iii) Application of a final rule promulgated under this subsection shall be stayed with respect to an installation subject to such rule while ERA is considering a petition for an exemption which is filed in accordance with Subpart F of Part 501 within 60 days after publication of the final rule in the *Federal Register*. The stay will remain in effect pending judicial review of ERA's action upon such exemption petition.

(iv) No final rule will apply to an installation that—

(A) Has received any final order containing a comparable prohibition;

(B) Has received a proposed order but did not receive a final order because of a demonstration that the installation qualified or would have qualified for an exemption under the Act; or

(C) Has been granted an exemption in accordance with Subparts C and D;

(2) Prohibition by order.

(i) ERA may prohibit, by order, the use of natural gas or petroleum as a primary energy source in an installation which consists of a combustion turbine unit, combined cycle unit or internal combustion engine, if that installation has not been identified as a member of a category subject to a final rule in accordance with § 503.3(b)(1)(i) at the time of the issuance of the proposed order.

(ii) ERA shall not issue a final order to an installation covered by this subsection if it can be demonstrated that the installation is eligible for an exemption. However, if the installation is eligible only for a temporary exemption, ERA may issue a final order that will take effect at the expiration of the temporary exemption.

(iii) If ERA does not issue a final prohibition order because a facility qualifies for a permanent exemption, or, if the effective date of the order is delayed during the period that a temporary exemption is effective, ERA shall take appropriate action to assure compliance with the same requirements including terms and conditions, if any, or would have been contained in an order if an exemption would have been granted.

(3) *Limitation.* ERA may not prohibit the use of petroleum or natural gas in an installation covered by this subsection if acquisition or construction of such installation was begun before the date the proposed rule or proposed order containing the prohibition was published. Under such circumstances, ERA will consider the installation to be an "existing" installation for purposes of Title III of the Act.

Subpart B—General Requirements for Exemptions**§ 503.4 Purpose and scope.**

This subpart establishes the general requirements necessary to qualify for either a temporary or permanent exemption under this Part and sets out the methodology for calculating the cost of using an alternate fuel and the cost of using imported petroleum.

§ 503.5 Contents of petition.

Before ERA will accept a petition for either a temporary or permanent exemption under this Part, the petition must include all of the evidence and

information required in this Part and Part 501.

§ 503.6 Cost calculations for new facilities (reserved).

§ 503.7 State approval—general requirement for new powerplants.

(a) Where approvals by the appropriate State regulatory authority are required prior to the construction or use of a new powerplant, a petition for an exemption for consideration by ERA may be submitted to ERA prior to obtaining such approvals from the State regulatory authority.

(b) An exemption granted for a powerplant shall not become effective until an adequate demonstration has been made to ERA that all applicable approvals required by the State regulatory authorities have been obtained.

§ 503.8 No alternate power supply—general requirement for certain exemptions for new powerplants.

(a) *Application.* To qualify for an exemption, except in the case of an exemption for peakload powerplants, or an exemption for cogeneration units, Section 213(c) of the Act requires a demonstration that despite reasonable good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service. If a petitioner is unable to demonstrate that there is no alternate supply during the first year of operation, ERA will conclude that the absence of the proposed powerplant will not impair short-term reliability of service, and as a result will not grant the exemption. Such action would not impair long-term reliability of service, since a petition may be submitted for a powerplant that would begin operation in a subsequent year.

(b) *Criteria.* ERA will determine that there is no alternate supply of power if a petitioner demonstrates all of the following:

(1) A diligent effort has been made to reduce the need for the power from the proposed plant by implementing within the system whatever conservation measures are available and cost effective, including increasing the availability of alternate fuel-fired plants and by taking whatever measures are available to encourage or assist customers in implementing cost-effective conservation. In judging whether a conservation measure is cost-effective, the cost of providing such capacity or energy by conservation should be compared with the life cycle cost of capacity or energy from the

proposed plant including capital, operations and maintenance expenses, and fuel based on imported petroleum prices.

(2) A diligent effort has been made to purchase firm power for the first year of operation to cover all or part of the projected shortfall at a cost that is less than 10 percent above the annualized cost of generating power from the proposed plant (including the capital, operation and maintenance expenses, and fuel at imported petroleum prices).

(3)(i) Despite these efforts, the reserve margin in the petitioner's electric region, in the absence of the proposed plant, would fall below 20 percent during the first year of proposed operation; or

(ii) Despite these efforts, the reserve margin will be greater than 20 percent and it can be demonstrated that reliability of service would be impaired. In such case, the demonstration must be related to factors not included in the calculation of reserve margin, such as transmission constraints.

(c) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) The estimated peak demand for the system and the coincident peak demand for the electric region for the first year of operation of the proposed plant.

(2) The corresponding capacity projections, as well as any existing commitments by the system to purchase or sell power during that year.

(3) Evidence that firm power contracts have been solicited for the proposed first year operation, via letters to all potential sources (including non-utility sources) within or contiguous to the electric region, and also via advertisements.

(4) A calculation of the delivered cost of the firm purchased power offered in response to the solicitation(s) along with a detailed description of the method by which the annual cost of the purchased power is determined. Where relevant, the FERC Tariff Identifications intended as the basis for the purchase power contracts under negotiation (including the service schedules and/or exhibits which would apply to these contracts) should be provided.

(5) A calculation of the cost of power from the proposed plant during its initial year of operation. The petitioner may select the method of calculation, provided that the resulting cost may be meaningfully compared with the cost of purchased power. The calculation must include expenses due to capital, operations and maintenance, and fuel at imported petroleum prices. The petitioner may include cost effects of the economic dispatch of plants. The

number of kilowatt hours being compared from the proposed plant and the purchased power should be the same.

(6) A description of the measures that will have been taken prior to initial operation of the proposed plant to reduce energy losses within the petitioner's own system, to improve the operational reliability of its existing non-oil- or gas-fired plants, to improve its ability to meet peak demand without new capacity, and to encourage or assist its customers in implementing cost-effective conservation measures.

(7) Estimates of the kilowatt and kilowatt-hour savings that would result from the conservation measures.

(8) A calculation of the net capacity shortfall in the first year of the proposed operation (compared to a 20 percent reserve margin) if the proposed plant is not built but all the reasonable purchase and conservation opportunities referred to above are pursued with diligent good faith effort.

(d) *FERC Consultation.* ERA will forward a copy of any petition for which a showing is required under this section to FERC promptly after it is filed with ERA, and ERA will consult with FERC before making a finding on "no alternative supply of power."

§ 503.9 Use of mixtures—general requirement for certain permanent exemptions.

(a) *Application.* Except in the case of an exemption for peakload powerplants or certain fuel mixtures, ERA will not consider a petition for any permanent exemption provided for in Section 212 of the Act unless the use of a mixture(s) for which an exemption under § 503.38 (Fuel mixtures) of these regulations would be available has been considered.

(b) *Demonstration.* ERA will deny any exemptions except for peakload powerplants or certain fuel mixtures unless a petitioner demonstrates that use of such a mixture(s) is not economically or technically feasible. In order to make the demonstration required by this section a petitioner must show the following:

(1) For any mixture for which an exemption under § 212(d) of the Act would be available, were it required, evidence that the petitioner would be eligible for a general use exemption; or

(2) Use of a mixture(s) is not economically feasible. To make an adequate demonstration, a petitioner may select the manner of presenting the economic infeasibility of use of the mixture(s) considered. The following detailed information is required; description of the mixtures considered, detailed capital costs, annual operations

and maintenance expenses, maximum projected utilization factor, and fuel costs of oil and natural gas as outlined in § 503.6.

(3) Use of a mixture(s) is not technically feasible. To make an adequate demonstration, a petitioner may select the manner of presenting the technical infeasibility of use of the mixture(s) considered. The following detailed information is required: description of the mixture(s) considered; description of the types of unit for which an exemption is being requested, e.g., boilers, combined cycle units, combustion turbines or internal combustion engines; and a technical explanation of the factors which preclude the use of any mixture in that type of unit.

§ 503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.

(a) *ERA finding.* Except in the case of an exemption for peakload powerplants or fuel mixtures, ERA may deny permanent exemptions authorized under Section 212 of the Act if ERA finds on a site-specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If ERA has made such a finding, ERA will deny a petitioner's request for exemption unless the petitioner demonstrated that the use of a method of fluidized bed combustion is not economically or technically feasible. The petition or any supplement thereto required by ERA must include the following evidence:

(1) If use of a method of fluidized bed combustion were to be required, evidence that the petitioner would be eligible for a general permanent exemption; or

(2) Use of a method of fluidized bed combustion is not technically or economically feasible due to design or special circumstances.

§ 503.11 Alternative sites—general requirement for permanent exemptions for new powerplants.

(a) *Application.* To qualify for a general use exemption except state or local requirements, a petitioner must demonstrate that alternate fuels cannot be used at reasonable alternative sites. The petitioner must show that:

(1) All reasonable alternative sites were examined in an effort to use alternate fuels, and

(2) Alternate fuels cannot be used at any of the alternative sites considered.

(b) *Evidence.* The petition must include the following evidence:

(1) A map indicating the proposed site and each of the alternate sites which were considered;

(2) A description of each of the alternate fuels considered for use at each alternative site which was considered;

(3) A detailed description of the criteria the petitioner used to select the alternative sites which were considered and to select the alternate fuels examined for use at each alternative site;

(4) Copies or summaries of any studies performed as part of, or in support of the search for reasonable alternative sites;

(5) Information demonstrating that a general use exemption would be granted to use petroleum or natural gas at each alternative site; and

(6) Other reasons which would preclude the use of alternate fuel at each alternative site.

§ 503.12 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* A petitioner must comply with the terms and conditions of any exemption granted by ERA, including terms and conditions requiring the use of effective fuel conservation measures.

(b) *Compliance plans for temporary exemptions.*

(1) A duly executed compliance plan shall accompany a petition for a temporary exemption. The compliance plan shall include the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place, indicating how compliance with the applicable prohibitions of the Act will occur;

(ii) Evidence of binding contracts for fuel, or for facilities for the production of fuel, which are required for compliance with the applicable prohibitions of the Act;

(iii) A schedule indicating how any necessary permits and approvals required to burn an alternate fuel will be obtained; and

(iv) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions of the Act.

(2) The exemption shall not be effective until the compliance plan is approved by ERA.

(3) *Revisions of compliance plans.* If the petition is granted, an updated duly executed plan must be submitted to ERA:

(i) At the end of each 12-month period from the effective date of the exemption;

(ii) Within 1 month of an alteration of any milestone in the compliance plan, together with the reasons for the

alteration and its impact upon the scheduling of all other milestones in the plan; and

(iii) At any time the ERA, in its discretion, determines that a revised compliance plan may be necessary.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of the Act, non-compliance with any provision of an exemption, including any pertinent terms and conditions.

§ 503.13 Conservation measures.

(a) Except for limited use exemptions, a petition for a temporary or permanent exemption, must identify, describe, and document any conservation measures which have been taken, or for which studies have been undertaken to minimize the use of oil or gas. This description should identify any conservation goals for the unit under consideration, and for the facility at which the unit will be located, and in the case of powerplants, for the utility system. The description of these measures should be detailed and include comparative consumption figures, identification of conservation equipment or techniques, proposed manner of use, proposed date of use, cost, and expected benefits and problems. Conservation measures entail either reduction in consumption of oil and gas or increased efficiency in the utilization of oil and gas. Such measures can range from housekeeping measures to replacement of inefficient units and also could include the use of mixtures of gas and oil and alternate fuels and new more efficient technologies.

§ 503.14 Petroleum and natural gas consumption.

Except for limited use exemptions and a cogeneration exemption, a petition for a permanent exemption must include the following information:

(a) For each unit located at the facility or, its nameplates and net dependable capacity;

(b) Current and projected (through 1990) annual fuel consumption for each unit, by fuel type, and unit of measure; at the facility.

(c) Retirement plans for existing oil and gas units at the facility.

§ 503.15 Environmental impact analysis.

In order to enable ERA to comply with the National Environmental Policy Act of 1969 (NEPA), a petitioner must include the following information if a permanent exemption is requested. Material which has been prepared pursuant to any Federal, State or local requirement for environmental information for this unit or site may be

incorporated by reference and appended to the petition. Guidelines issued by ERA for environmental reports should be used in preparing this analysis (44 FR 63740, November 5, 1979). These guidelines, which are also available in the ERA public document room, have been designed to insure that environmental reports follow the format prescribed by Council on Environmental Quality final regulations implementing NEPA. The guidelines are subject to discussion at a prepetition conference and to modification according to the facts of a particular case.

(a) Except as provided in paragraph (b) of this section, all petitions for permanent exemptions must contain the following information:

(1) A description of the facility, including the site location, and surroundings (and, in the case of new powerplants, alternative site(s)), the facility's current proposed operations, its fuel capability, and its pollution abatement systems and equipment (including those systems and equipment necessary for all fuel scenarios considered);

(2) A description of the existing environment, including air, water, and land resources;

(3) Direct and indirect environmental impacts of the proposed action including impacts of alternative fuel scenarios, and no build alternatives.

(4) Regulatory requirements governing the facility, including a description of Federal, State and local requirements for air, water, noise and solid waste disposal which must be met for each fuel considered.

(b) For limited use exemptions the information enumerated below is to be submitted in lieu of the information required by paragraph (a) of this section. However, submission of the following information merely establishes a rebuttable presumption that the grant or denial of the exemption would have no significant environmental impact. ERA may, in individual cases, during the course of the administrative proceeding, determine that additional environmental information is required. In such cases, the petitioner will be required to submit the information described in paragraph (a) of this section.

(1) A certification that the petitioner will, prior to operating the unit under the exemption, secure all applicable environmental permits and approvals pursuant to, but not limited to, the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act, Safe Drinking Water Act, Resource Conservation and Recovery Act; and

(2) Information required by the following environmental checklist must be provided and certified as accurate:

Environmental Checklist for FUA Certification Exemptions

Instructions

All questions are to be answered by placing a check in the appropriate box. N/A represents (not applicable). Although it is not required, the petitioner may elaborate on any question in writing on a separate sheet of paper.

	Yes	No	N/A
(1) Is your facility located in, or will it affect, a wetland (Protection of Wetlands Executive Order No. 11990)?	—	—	—
(2) Is your facility located in, or will it affect, a 100-year floodplain (Floodplain Management Executive Order No. 11988)?	—	—	—
(3) Will your facility affect a designated wild, scenic, or recreation river (Wild and Scenic Rivers Act)?	—	—	—
(4)(A) Is your facility located within a county in which critical habitat for threatened or endangered species are known to exist (Endangered Species Act)?	—	—	—
(4)(B) Has a qualified biologist determined that your facility will not affect any species on the Threatened and Endangered Species list?	—	—	—
(5) Is your facility located on, or will it affect land that has been classified as prime or unique farmland or rangeland by the U.S. Department of Agriculture?	—	—	—
(6) Is your facility located on, or will it affect, historical, archaeological, or cultural resources that have been designated pursuant to the National Historic Preservation Act?	—	—	—

§ 503.16 Fuels search.

Prior to submitting a petition for any general use exemption, or an intermediate load powerplant exemption, or a scheduled equipment outage for over 28 days, a petitioner must perform a fuel search by examining the use of alternate fuels as a primary energy source at the site under consideration, and for powerplants reasonable alternative sites. In submitting a petition, a petitioner must demonstrate for each of the fuels examined that he would qualify for an exemption. The minimum number of alternate fuels which petitioner will be required to examine in this fuel search can be ascertained prior to submission of a petition provided that a prepetition conference is held in accordance with Part 501.

Subpart C—Temporary Exemptions for New Facilities

§ 503.20 Purpose and scope.

(a) This subpart implements the provisions contained in Section 211 of the Act with regard to temporary exemptions for new facilities.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants and installations who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for temporary exemptions shall be submitted in accordance with the procedures set out in Part 501 and the applicable requirements of Part 503 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the facility is placed in service.

§ 503.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 211(a)(1) of the Act provides for a temporary exemption due to the unavailability of an adequate and reliable supply of an alternate fuel at a cost which does not substantially exceed the cost of using imported petroleum. To qualify, a petitioner must demonstrate that:

(1) A good faith effort has been to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to the design and operational requirements of the unit;

(2) For the period of the proposed exemption, the cost of using such alternate fuel would substantially exceed the cost of using imported petroleum as a primary energy source as defined in Section 503.6 (Cost calculation) of these regulations; and

(3) The petitioner will be able to comply with the applicable prohibitions of the Act at the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) An analysis of the alternate fuels which were considered;

(2) A description of the various types of units which were considered in a good faith effort to comply with the applicable prohibitions;

(3) A description of the detailed design requirements specified for the proposed unit, including capacity, alternate fuel capability, and all other specifications;

(4) A description of the range of specific fuel characteristics of each of the fuels which can be used by the proposed unit;

(5) Evidence that the petitioner sought to obtain the full range of alternate fuels which could be used by the proposed unit, including bid requests and/or advertisements for supply contracts and all responses thereto, as well as any

other arrangements attempted to secure supplies;

(6) Evidence of the contracts or other arrangements the petitioner has made to ensure a reliable and adequate supply of an alternate fuel at the end of the proposed exemption;

(7) All data required by § 503.6 (Cost calculation) of these regulations necessary for computing the cost calculation formula;

(8) Compliance plan as required under § 503.12; and

(9) Conservation measures as required under § 503.13; and

(10) For powerplants, no alternate power supply as required under § 503.8.

(c) *Certification alternative for installations.* If the MPBI for which this exemption is being requested will be operated less than 600 hours on an annual basis, the petitioner may substitute the following information in lieu of the requirements in paragraph (b) of this section:

(1) A duly executed certification that the unit will be operated less than 600 hours annually during the period of the exemption;

(2) Compliance plan as required under § 503.12;

(e) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed 10 years.

§ 503.22 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption, a petitioner must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of the proposed facility exist which, despite diligent good faith efforts, cannot be overcome before the end of the proposed exemption period:

(1) Alternate fuels would be inaccessible because of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(5) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(6) Other site limitations exist which would not permit the location or

operation of the proposed unit using an alternate fuel.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 503.36 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed;

(4) Evidence of contracts or other arrangements which have been made to insure that the site limitation will be overcome and that the petitioner will comply with the prohibitions at the end of the proposed exemption period.

Note.—For the purposes of paragraph (b) examples of kinds of evidence which may be submitted to establish a site limitation include:

(i) Detailed documentation of impediments, including rights of way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the specific site of the proposed unit and demonstration why existing facilities cannot be utilized or new facilities constructed;

(iii) General efforts made, and copies of bid requests and advertisements to secure:

(A) Alternative transportation facilities;

(B) Alternative fuel storage facilities;

(C) Waste control and disposal equipment.

(iv) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed unit;

(v) Detailed scale site plans of the entire facility which include those areas not directly involved with the specific unit;

(vi) A specific listing of all equipment necessary and not currently available to properly handle alternate fuel;

(vii) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation of required ancillary storage or handling equipment;

(viii) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(ix) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed facility;

(x) A description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use.

(5) Compliance plan as required under § 503.12; and

(6) Conservation measures as required under § 503.13.

(7) For powerplants, no alternative power supply as required under § 503.8.

(c) *Duration.* This temporary exemption, taking into account any extensions and renewals, may not exceed five years.

§ 503.23 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 211(a)(3) of the Act provides for a temporary exemption due to an inability to comply with applicable environmental requirements. To qualify a petitioner must demonstrate that despite diligent good faith efforts:

(1) The petitioner will be unable, as of the projected date of commencement of operation, to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or State environmental requirements; and

(2) The petitioner will be able to comply with the applicable prohibitions imposed by the Act and with applicable environmental requirements by the end of the temporary exemption period.

Note.—(1) For purposes of considering an exemption under this section, ERA's decision will be based solely on an analysis of the petitioner's capacity to physically achieve applicable environmental requirements. The petition should be directed toward those conditions or circumstances which make it physically impossible to comply during the temporary exemption period. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 503.21.

(2) Prior to submitting an exemption application, it is recommended that a meeting be requested with ERA and EPA or the appropriate State or local regulatory agency to discuss options for operating an alternate fuel fired facility in compliance with applicable environmental requirements.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Where the petitioner has applied for a construction permit from EPA or an appropriate State agency prior to petitioning for an exemption under this section, a copy of that application and detailed synopsis of all supporting documents filed with or subsequent to that application must be submitted to ERA with the petition or at the time filed with the permitting agency.

(2) To the extent applicable, a copy of the EPA or State denial or the construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or State or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which would provide the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of its ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels which would provide the basis for exemption. All such analysis must be based on accepted analytical techniques, such as air quality modeling, and reflect current conditions of the area which would be affected by the facility. The petitioner is responsible for obtaining the necessary data to accurately characterize these conditions. Environmental compliance must be examined in the context of available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain: (i) requests for bids and other inquiries made and responses received by the petitioner concerning the availability and performance of pollution control equipment; (ii) contracts signed, if any, for an alternate fuel supply and for the purchase and installation of pollution control equipment; or (iii) other comparable evidence such as technical studies documenting the effectiveness of equipment to meet applicable requirements.

(6) An examination of the regulatory options available to the petitioner in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances, and State Implementation Plan revisions, as appropriate. The analysis must illustrate and document any efforts to locate, identify, and acquire offsets, including agreements made with the State or other companies for acquisition of offsets. If an agreement to acquire offsets is conditioned upon the grant of a variance, or State Implementation Plan revision, a letter must be submitted from the State agency indicating when a proceeding to effectuate the agreement will take place. The analysis must contain any correspondence initiated or received by the petitioner concerning these regulatory options and all technical studies relied upon.

(7) Any other documentation which demonstrates an inability to comply with applicable environmental requirements.

(8) Compliance plan as required under § 503.12;

(9) Conservation measures as required under § 503.13; and

(10) For powerplants, no alternate power supply as required under § 503.8.

(c) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

§ 503.24 Future use of synthetic fuels.

(a) *Eligibility.* Section 211(b) of the Act provides for a temporary exemption based upon the future use of synthetic fuels. To qualify, a petitioner must certify that:

(1) The petitioner will be able to comply with the applicable prohibitions imposed by the Act by the use of a synthetic fuel derived from coal or another alternate fuel as a primary energy source in the proposed facility by the end of the proposed exemption period; and

(2) The petitioner will not be able to comply with the applicable prohibitions imposed by the Act by use of a synthetic fuel until the end of the proposed exemption period.

(b) *Evidence required in support of a petition.* The following evidence must be included in the petition in order to make the demonstration required by this section:

(1) A duly executed certification that the petitioner is not able to comply with the applicable prohibitions of the Act until the end of the proposed exemption period but will comply by the use of a synthetic fuel derived from coal or another alternate fuel as a primary energy source in the facility by the end of the proposed exemption period;

(2) A description of the synthetic fuel which the petitioner proposes to use;

(3) For powerplants, no alternate powers supply as required under § 503.8;

(4) A preliminary compliance plan, including to the extent available, the information required under § 503.12.

(c) *Final Compliance Plan.* Before an exemption may become effective, the petitioner must submit and ERA must approve a final compliance plan as required by § 503.12.

(d) *Duration.* This temporary exemption may be granted for a period of up to 5 years, and taking into account extension and renewals, may not exceed 10 years.

§ 503.25 Public interest.

(a) *Policy Note.* (1) Generally, the use of coal and other alternative fuels in lieu of petroleum and natural gas is in the public interest. Under certain circumstances, however, other considerations may be relevant to a

determination of the public interest; and to accommodate these considerations, ERA will grant this temporary exemption where the petitioner is unable to comply immediately with the prohibitions of the Act, where the public interest would be better served by the granting of the petition, and where a petitioner will be in compliance with the prohibitions imposed by the Act at the end of the exemption period.

(2) One of the cases where ERA intends to grant this exemption is where the petitioner needs the temporary use of a natural gas or petroleum fuel unit until the on-going construction of an alternate fired unit is completed. However, in determining the appropriate basis on which to grant such an exemption ERA may consider the petitioner's ability to use a mixture.

(b) *Eligibility.* Section 211(c) of the Act provides for a temporary public interest exemption. To qualify, a petitioner must demonstrate that:

(1) The unit will be capable of complying with the applicable prohibitions at the end of the proposed exemption period; and

(2) The granting of the exemption would be in accord with the purposes of the Act and would be in the public interest.

(c) *Evidence required in support of a petition.* The petitioner must include the following in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above;

(2) Compliance plan as required under § 503.12;

(3) Conservation measures as required under § 503.13; and

(4) For powerplants, no alternative power supply as required by § 503.8.

(d) *Duration.* This temporary exemption, taking into account extension and renewals, may not exceed 5 years.

Subpart D—Permanent Exemptions for New Facilities

§ 503.30 Purpose and scope.

(a) This subpart implements the provisions contained in Section 212 of the Act with regard to permanent exemptions for new facilities.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants and installations who petition for a permanent exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for permanent exemptions for new facilities shall be submitted in accordance with the

procedures set out in Part 501 of this chapter and the applicable requirements of Part 503 of these regulations.

§ 503.31 Lack of alternate fuel supply for the first 10 years of useful life.

(a) *Eligibility.* Section 212(a)(1)(A)(i) of the Act provides for a permanent exemption due to lack of an adequate and reliable supply of alternate fuel within the first 10 years of useful life of the proposed unit. To qualify, a petitioner must demonstrate that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the unit; and

(2) Such a supply is not likely to be available within the first 10 years of useful life of the proposed unit.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) A description of the various types of units which were considered in a good faith effort to comply with the applicable prohibitions;

(2) A description of the detailed design requirements the petitioner specified for the proposed unit, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of each of the fuels which can be used by the proposed unit;

(4) Evidence that the petitioner sought to obtain the full range of alternate fuels which could be used by the proposed unit;

(5) Evidence that the petitioner solicited at least five bids from suppliers who could reasonably be expected to supply an adequate and reliable supply of the quality and quantity of alternate fuel needed, including bid requests and/or advertisements for supply contracts and all proposals or responses thereto, as well as any other arrangements attempted to secure supplies. ERA will accept fewer than five bid requests upon submission of reasonable justification;

(6) For powerplants, no alternate power supply as required by § 503.8, powerplants;

(7) Use of mixtures as required by § 503.9;

(8) Use of fluidized bed combustion not feasible as required by § 503.10;

(9) For powerplants, alternative sites as required by § 503.11;

(10) Conservation measures as required by § 503.13;

(11) Petroleum and natural gas consumption as required by § 503.14;

(12) Environmental impact analysis as required by § 503.15; and

(13) Fuel search as required by § 503.16.

§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(a) *Eligibility.* Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify a petitioner must demonstrate that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (Cost Calculation) of these regulations.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) A description of the alternate various types of units considered in a good faith effort to comply with the applicable prohibitions;

(2) A description of the detailed design requirements specified for the proposed unit, including capacity, alternate fuels capability, and all other pertinent specifications;

(3) A description of the range of specific fuel characteristics of each of the fuels which can be used by the new facility;

(4) Evidence that the petitioner sought to obtain the full range of alternate fuels which could be used by the proposed unit, including bid requests and/or advertisements for supply contracts, all proposals and responses thereto, as well as any other arrangements attempted to secure supplies;

(5) All data required by § 503.6 of these regulations (Cost Calculation) necessary for computing the cost calculation formula;

(6) For powerplants, no alternate power supply as required by § 503.8;

(7) Use of mixtures as required by § 503.9;

(8) Use of fluidized bed combustion not feasible as required by § 503.10;

(9) For powerplants, alternative sites as required by § 503.11;

(10) Conservation measures as required by § 503.13;

(11) Petroleum and natural gas consumption as required by § 503.14;

(12) Environmental impact analysis as required by § 503.15; and

(13) Fuel search as required by § 503.16.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 600 hours on an annual basis, the petitioner may submit the following information in lieu of the requirements of paragraph (b) of this section. A duly executed certification that:

(1) The unit will be operated less than 600 hours annually;

(2) Use of a mixture of petroleum or natural gas and an alternate fuel for which an exemption would be available is not economically or technically feasible; and

(3) The certifications required by § 503.15(b).

(d) Terms and conditions

(1) Standard terms and conditions. By petitioning for an exemption under paragraph (c) of this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(i) The unit will be operated less than 600 hours annually;

(ii) All steam pipes will be insulated and all steam traps properly maintained;

(iii) The quality of any petroleum to be burned in the unit will be the lowest grade available, technically feasible, and capable of being burned consistent with applicable environmental requirements;

(iv) Petitioner shall report annually the hours of use and the fuel consumption in the previous calendar year for the unit;

(v) Petitioner must also comply with any terms or conditions which may be imposed pursuant to the environmental requirements of § 503.15(b).

§ 503.33 Site limitations.

(a) *Eligibility.* Section 212(a)(1)(B) of the Act provides for a permanent exemption due to site limitations. To qualify for such an exemption, a petitioner must demonstrate that one or more of the following specific physical limitations relevant to the location or operation of the proposed facility exists which, despite good faith efforts, cannot reasonably be expected to be overcome within five years after commencement of operations.

(1) Alternate fuels would be inaccessible as a result of a specific physical limitation;

(2) Transportation facilities for alternate fuels would be unavailable;

(3) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(4) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(5) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(6) Other site limitations exist which would not permit the location or operation of the proposed unit using an alternate fuel.

(b) *Evidence required in support of the petition.* A petitioner must include in the petition the following in order to make the demonstration required by this section:

(1) Evidence that the site limitation is a physical limitation, and not a requirement of Federal, State, or local law which could be the basis of an exemption under § 503.36 (State or local requirements);

(2) Evidence that alternative means for overcoming the specific site limitations were considered, with a detailed description of the efforts made to overcome the site limitations;

(3) Evidence of the equipment or space requirements for which the site limitation is claimed.

Note.—For the purposes of paragraph (b) of this section, examples of kinds of evidence which may be submitted to establish a site limitation include:

(i) Detailed documentation of impediments, including rights-of-way problems, site diagrams, maps of the surrounding areas and other items essential to the showing of a site limitation;

(ii) Identification of transportation facilities relevant to the geographic site of the facility and demonstration why existing transportation facilities cannot be utilized or new facilities constructed;

(iii) Identification of potential alternate waste disposal locations within a reasonable geographic area surrounding the proposed unit;

(iv) A description of efforts made to secure off-site disposal areas, including the cost of acquisition of the sites, transportation facilities and waste handling costs involved in their use;

(v) General efforts made, and copies of bid requests and advertisements to secure:

(A) Waste control and disposal equipment;

(B) Alternative fuel storage facilities;

(C) Alternative transportation facilities;

(vi) Identification of potential alternate fuel storage locations within a reasonable geographic area surrounding the proposed facility;

(vii) Detailed scale site plans of the entire facility which include those areas not directly involved with a specific facility;

(viii) A specific listing of all equipment necessary and not currently available to properly handle alternate fuels;

(ix) Copies of quotes from bona fide suppliers, indicating lead times for purchase and installation or required ancillary storage or handling equipment;

(x) Specific listing of any equipment necessary and not currently available to properly control and dispose of waste;

(4) For powerplants, no alternative power supply as required under § 503.8;

(5) Use of mixtures as required under § 503.9;

(6) Use of fluidized bed combustion not feasible as required under § 503.10;

(7) For powerplants, alternative sites as required under § 503.11;

(8) Conservation measures as required under § 503.13;

(9) Petroleum and natural gas consumption as required under § 503.14;

(10) Environmental impact analysis as required under § 503.15; and

(11) Fuel search as required under § 503.16.

§ 503.34 Inability to comply with applicable environmental requirements.

(a) *Eligibility.* Section 212(a)(1)(C) of the Act provides for a permanent exemption due to the inability to comply with applicable environmental requirements. To qualify, a petitioner must demonstrate that despite good faith efforts:

(1) The petitioner will be unable within 5 years after beginning operation, to comply with the applicable prohibitions imposed by the Act without violating applicable Federal or state environmental requirements; and

(2) In the case of powerplants, reasonable alternative sites, which would permit the use of alternate fuels in compliance with applicable Federal or state environmental requirements, are not available.

Note.—(1) For purposes of considering an exemption under this section, ERA's decision will be based solely on an analysis of the petitioner's capacity to physically achieve applicable environmental requirements. The cost of compliance is not relevant, but cost-related considerations may be presented as part of a demonstration submitted under § 503.32 (Lack of alternate fuel supply).

(2) Prior to deciding to submit an exemption petition, it is recommended that a petitioner request a meeting with ERA and EPA or the appropriate state or local regulatory agency to discuss options for operating an alternative fuel-fired facility in compliance with the applicable environmental requirements.

(c) *Evidence required in support of a petition.* The petitioner must include in the petition the following evidence in order to make the demonstration required by this section:

(1) Where the petitioner has applied for a construction permit from EPA or an appropriate state agency prior to petitioning for an exemption from ERA under this section, a copy of such application and a detailed synopsis of all supporting documents filed with or subsequent to the application must be submitted to ERA with the petition or at the time filed with the permitting agency;

(2) To the extent applicable, a copy of the EPA or state denial of the construction permit application;

(3) To the extent applicable, a detailed synopsis of the administrative record of the EPA or state or local permit proceedings;

(4) To the extent applicable, an analysis of the technology upon which the denial was based, including a performance comparison between the proposed technology and that technology which provides the maximum possible reduction of pollution;

(5) An examination of the environmental compliance of the facility, including an analysis of its ability to meet applicable standards and criteria when using both the proposed fuel and all alternate fuels which would provide the basis for the exemption. All such analysis must be based on accepted analytical techniques, such as air quality modeling, and reflect current conditions of the area which would be affected by the facility. The petitioner is responsible for obtaining the necessary data to accurately characterize these conditions. Environmental compliance must be examined in the context of available pollution control equipment which would provide the maximum possible reduction of pollution. The analysis must contain: (i) requests for bids and other inquiries made and responses received by the petitioner concerning the availability and performance of pollution control equipment; or (ii) other comparable evidence such as technical studies documenting efficacy of equipment to meet applicable requirements;

(6) An examination of the regulatory options available to the petitioner in seeking to achieve environmental compliance. This must include an analysis of the availability of offsets, if needed, and the potential for securing variances and State Implementation Plan (SIP) revisions, as appropriate. The analysis must illustrate and document any efforts to locate, identify, and acquire available offsets, and to secure variances and SIP revisions. The analysis must contain any correspondence initiated or received by the petitioner concerning these

regulatory options and all technical studies relied upon;

(7) Any other documentation which demonstrates an inability to comply with applicable environmental requirements;

(8) For powerplants, no alternative power supply as required under § 503.8;

(9) Use of mixtures as required under § 503.9;

(10) Use of fluidized bed combustion not feasible as required under § 503.10;

(11) For powerplants, alternative sites as required under § 503.11;

(12) Conservation measures as required under § 503.13;

(13) Petroleum and natural gas consumption as required under § 503.14;

(14) Environmental impact analysis as required under § 503.15; and

(15) Fuels search as required under § 503.16.

§ 503.35 Inability to obtain adequate capital.

(a) *Eligibility.* Section 212(a)(1)(D) of the Act provides for a permanent exemption due to inability to obtain adequate capital. To qualify, a petitioner must demonstrate that:

(1) Despite good faith efforts the petitioner will be unable to comply with the applicable prohibitions imposed by the Act because the additional capital required for an alternate fuel-capable unit beyond that required for the proposed unit cannot be raised, and

(2) In the case of powerplants, this additional capital cannot be raised due to specific restrictions (e.g., covenants on existing bonds) which constrain management's ability to raise debt or equity capital and, in the case of utilities which a total system generating capacity greater than or equal to 2000 megawatts on a parent company basis, such restrictions could not be alleviated by any future action of the public utility commission or any other regulatory authority.

(b) *Evidence required in support of a petition (powerplants).* A petition must include the following information in order to make the demonstration required by this section:

Note.—If the petitioner is part of a firm, the analysis must be at the parent firm level.

(1) In the case of utility systems which have a total system generating capacity larger than or equal to 2000 megawatts, a statement of the applicable regulatory authority's policies on utility capital structure and formation, on the recognition of allowance for funds used during construction (in the utility's net plant) and of construction work in progress (in the utility's rate base), and on the accounting procedure for

recognizing tax credits (flow-through or normalized);

(2) Relevant records pertaining to the utility's specific efforts to raise capital (including dividend reinvestment plans), associated with the proposed powerplant;

(3) Five-year history of the utility's capital structure, recognizing specific security issues (including dividend reinvestment plans), their current yields and their investment ratings as applicable. Indicate where a security issued has specific ties to an on-line or scheduled generating unit;

(4) Five-year summary of the utility's financial record as indicated by the statement financial indicators, including cash earnings and dividend records, times-interest coverage ratios, price-earnings ratios, and market-to-book value ratios;

(5) Projected changes in the utility's capital structure and financial indicators in the case where the powerplant consumes alternate fuel and oil or natural gas; and

(6) In the case of utility systems which have a total system generating capacity less than 2000 megawatts on a parent company basis, the evidence required in paragraph (b)(2) through (5) of this section, and the impact of financing an alternate fuel fired facility would have upon rates, as well as any other relevant evidence.

(7) No alternative power supply as required under § 503.8;

(8) Use of mixtures as required under § 503.9;

(9) Use of fluidized bed combustion not feasible as required under § 503.10;

(10) Alternative sites as required under § 503.11;

(11) Conservation measures as required under § 503.13;

(12) Petroleum and natural gas consumption as required under § 503.14;

(13) Environmental impact analysis as required under § 503.15; and

(14) Fuels search as required under § 503.16.

(c) *Evidence required in support of a petition (installations).* A petition must include the following information in order to make the demonstration required by this section:

Note.—If the petitioner is part of a firm, the analysis must be at the parent firm level.

(1) A description of petitioner's efforts to raise the additional capital, including a list of all financial institutions and individuals contacted as well as a summary of the results of each contact. If the inability to raise the additional capital is affected by specific restrictions, describe those restrictions and their effect;

(2) A detailed accounting of the additional capital required to construct and operate the alternate fuel-capable unit;

(3) An estimated accounting on a calendar-year basis of all cash outlays for capital investments and expenses for both the proposed unit and for an alternate fuel-fired unit. All critical assumptions should be stated and sufficient data should be included to support such estimate;

(4) A detailed statement of the sources of funds to be raised to construct and operate the proposed unit;

(5) An analysis of the sources of funds available if the alternate fuel capable unit is constructed and operated;

(6) The firm's annual reports for the past 5 years;

(7) A 5-year summary of the financial records which includes:¹

(i) Balance sheets;

(ii) Income statements; and

(iii) Fund flow statements;

(8) Standard financial indicators for the past 5 years which include:²

(i) Earnings per share of common and preferred stock;

(ii) Return on equity;

(iii) Current ratio and quick ratio;

(iv) Times-interest earned ratio;

(v) Price-earnings ratio for common stock;

(iv) Market-to-book ratio for common stock; and

(vii) Latest Standard & Poor's or Moody's ratings on common stock;

(9) A list of all investments made by the firm (or consolidated corporation) in excess of \$1 million during the past 3 years. This list should specify the capital outlays by calendar year and the manner in which the outlay was financed;

(10) Any other relevant financial information that would reflect upon the firm's ability to raise adequate capital to finance an alternate fuel-fired unit;

(11) Use of mixtures as required under § 503.9;

(12) Use of fluidized bed combustion not feasible as required under § 503.10;

(13) Conservation measures as required under § 503.13;

(14) Petroleum and natural gas consumption as required under § 503.14;

(15) Environmental impact analysis as required under § 503.15; and

(16) Fuels search as required under § 503.16.

§ 503.36 State or local requirements.

(a) *Eligibility.* Section 212(b) of the Act provides for an exemption due to

¹ If the information is contained in the firm's annual report, it need not be reported.

² If the information is contained in the firm's annual report, it need not be reported.

certain State or local requirements. To qualify a petitioner must demonstrate that:

(1) With respect to the proposed site of the unit, the operation or construction of the new unit using an alternate fuel is infeasible because of a State or local requirement other than a building code, nuisance, or zoning law;

(2) The petitioner has made a good faith effort to obtain a variance from the State or local requirement but has been unable to do so or has demonstrated why none is available;

(3) The granting of the exemption would be in the public interest and would be consistent with the purposes of the Act; and

(4) In the case of powerplants, (i) the petitioner is not entitled to an exemption for lack of alternate fuel supply, site limitation, environmental requirements, or inability to obtain adequate capital at the site of the proposed powerplant or at any reasonable alternative site for all alternate fuels; and (ii) at the proposed site and every reasonable alternative site where the petitioner is not entitled to an exemption for lack of alternate fuel supply, site limitation, environmental requirements, or inability to obtain adequate capital at the site for all alternate fuels, the petitioner nevertheless would be barred at each such proposed or alternate site from burning an alternate fuel by reason of a State or local requirement.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A copy of the pertinent State or local requirement with its citation and its legislative history;

(2) The identification and location of the administrative body which implements the requirement;

(3) A description of the petitioner's attempts to obtain a variance from the requirements or an explanation of why none is available;

(4) A description and dates of any activities the petitioner was involved in pertaining to the enactment of the requirement;

(5) A description of equipment, procedures, and the advance planning time necessary to comply with the requirement;

(6) A detailed description of why compliance with the State or local requirement is infeasible;

(7) The impact upon the petitioner and/or the local community, if any, should the petition be denied;

(8) An explanation of the reasons why granting this exemption would be in the public interest;

(9) In the case of powerplants, an analysis of why the petitioner cannot qualify for any of the exemptions listed in paragraph (a)(4) of this section for all alternate fuels at the proposed site and at all reasonable alternative sites;

(10) For powerplants, no alternative power supply as required under § 503.8;

(11) Use of mixtures as required under § 503.9;

(12) Use of fluidized bed combustion not feasible as required under § 503.10;

(13) Conservation measures as required under § 503.13;

(14) Petroleum and natural gas consumption as required under § 503.14;

(15) Environmental impact analysis as required under § 503.15; and

(16) Fuels search as required under § 503.16.

(c) *Exercise of discretion by ERA.* ERA will only grant this exemption if it determines that such grant would be in the public interest and in accordance with the purposes of the Act.

§ 503.37 Cogeneration.

* * *

§ 503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* Section 212(d) of the Act provides for a permanent exemption for certain fuel mixtures. To qualify, a petitioner must demonstrate that:

(1) The petitioner proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source;

(2) The amount of petroleum or natural gas proposed to be used in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources needed to maintain operational reliability of the unit consistent with maintaining a reasonable level of fuel efficiency.

(b) *Minimum Percentage.* In the case of MFB's, if the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources used by an installation.

(c) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) A complete description of the fuel mixture, component elements of the mixture, and the percentage and quantity of each component to be utilized;

(2) The design specifications of the unit for which an exemption is requested;

(3) An engineering assessment of the minimum percentages of petroleum or natural gas needed to maintain reliability of operation consistent with a reasonable level of fuel efficiency;

(4) For powerplants, no alternative power supply as required under § 503.8;

(5) Conservation measures as required under § 503.13;

(6) Petroleum and natural gas use as required under § 503.14; and

(7) Environmental impact analysis as required under § 503.15;

(d) *Certification alternative for use of mixture containing less than 25 percent petroleum or natural gas by an installation.* If an installation will use a mixture containing less than 25 percent petroleum or natural gas, the petitioner may, in lieu of the requirements of paragraph (c) of this section substitute the following information:

(1) A duly executed certification stating that the amount of petroleum or natural gas proposed to be used in the mixture will not exceed 25 percent of the total annual Btu heat input of the installation;

(2) The certifications as required under § 503.15(b);

(3) A description of the fuel mixture, component elements, and percentage and quantity of each component to be utilized.

(e) *Terms and conditions.* By petitioning for an exemption pursuant to paragraph (d) of this section, the petitioner accepts, upon grant of the exemption, to the following terms and conditions:

(1) The amount of petroleum or natural gas to be used in the mixture will not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the installation;

(2) All steam pipes must be insulated and all steam traps properly maintained; and

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(4) Petitioner must comply with any terms or conditions which may be imposed pursuant to the environmental requirements of § 503.15(b) of these regulations.

(f) *Solar mixtures.* ERA will grant a permanent mixtures exemption for the use of a mixture of solar energy (including wind, tide, and other intermittent sources) and petroleum or natural gas, where:

(1) Solar energy will account for at least 20 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(2) The petitioner proposes an acceptable plan to ERA which—

(i) Meets the evidence requirements set forth in paragraphs (c) (1) and (2) of this section; and

(g) *Reporting requirement.* If any exemption is granted, the petitioner must submit a duly executed annual report to ERA certifying that the affected units have used no more than the percentage of oil or natural gas specified in the exemption order.

§ 503.39 Emergency purposes.

(a) *Eligibility.* Section 212(e) of the Act provides for a permanent exemption for emergency purposes. To qualify a petitioner must demonstrate he will operate and maintain the proposed unit for emergency purposes only.

(b) *Definition.* For the purposes of this permanent exemption, an emergency exists when:

(1) Operation of an oil or gas fired installation or the non-electric generating operation of a cogenerating facility is necessary for:

(i) Plant protection;

(ii) The preservation of human health; or

(iii) Continued facility production which otherwise would be reduced due to an interruption of alternate fuel supplies, equipment failures, imminent equipment failures, or temporary environmental restrictions.

(2) An operating electric utility would be required to curtail noninterruptible electric supply to its industrial customers.

(c) *Evidence required in support of a petition.* A petition submitted under this section shall include the following certifications executed by a duly authorized officer of the company:

(1) Operation under the provisions of this exemption will occur only in accordance with the definition of emergency in accordance with paragraph (b) of this section;

(2) Use of a mixture of petroleum or natural gas and an alternate level for which an exemption under § 212(d) of the Act would be available is not economically or technically feasible;

(3) In the case of powerplants, that despite reasonable good faith efforts, there is no supply of electric power as required under § 503.8; and

(4) The certifications as required under § 503.15(b).

(d) *Reporting requirements.* At the end of each 12-month period from the effective date of the exemption, the petitioner must report to ERA the

number of days of use and the amount of fuel used under this exemption by month. The petitioner must also describe the emergency conditions that required the operation of the unit.

(e) *Terms and conditions.* By petitioning for an exemption under this section, the petitioner accepts, upon grant of the exemption, the following terms and conditions:

(1) Operation of the facility will occur only when there is an emergency as defined in this section;

(2) All steam pipes must be insulated and all steam traps properly maintained; and

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available, which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(4) Petitioner must comply with any terms or conditions which may be imposed pursuant to the environmental requirements of section 503.15(b) of these regulations.

§ 503.40 Permanent exemption for powerplants necessary to maintain reliability of service.

(a) *Eligibility.* Section 212(f) of the Act provides for a permanent exemption necessary to maintain reliability of service. To qualify, a petitioner must demonstrate that:

(1) Petitioner is not able to construct an alternate fuel fired unit in time to prevent an impairment of reliability of service; and

(2) Despite diligent good faith efforts, the petitioner is not able to make the demonstration necessary to obtain a permanent general use exemption in the time required to prevent an impairment of reliability of service.

(b) *Impairment of Reliability of Service.* For purposes of paragraphs (a)(1) and (2) of this section, impairment of reliability of service must be calculated as measured by the loss of load probability technique (LOLP).

(1) The LOLP must be computed for petitioner's electrical region using any 12-month period that includes the date of initial operation. It is to be calculated as the sum of either the weekly or the monthly estimates of hourly load/capacity deficits. The calculation may be performed using either weekly or monthly data. The LOLP calculation must take into consideration equipment forced outage rates, projected customer electrical demand, and generating capacity projections for the electrical region, including existing generating capacity, planned generating capacity additions and projected firm bulk electrical purchases and sales, and

projected retirements. If necessary, LOLP may also be calculated with modifications to account for transmission constraints, energy shortages and other factors that are not adequately addressed by adhering to the foregoing specifications. A petitioner will need to discuss why such modifications are appropriate.

(2) Reliability of service will be considered impaired if the LOLP for a 12-month period, including the initial operational date of the proposed unit, is greater than:

(i) One day in 5 years if the proposed powerplant will start operating within 4 years from the filing of the petition;

(ii) One day in 3 years if the proposed powerplant will start operating between 4 and 6 years from the filing of the petition; or

(iii) One day in one year if the proposed powerplant will start operating in 6 or more years from the filing of the petition.

Note.—For the purpose of calculation of LOLP, if a capacity deficit occurs one or more times in one day, such an event constitutes a one-day loss of load.

(3) A petitioner may choose to argue that his case for impaired reliability is supportable by criteria other than those contained in this paragraph. If so, such argument must be presented, and an approach proposed for its justification, in a prepetition conference for ERA concurrence.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) All data used in determining the loss of load probability;

(2) An explanation including equations of how the loss of load probability was calculated;

(3) A description of the method used and assumptions for projecting demand for the system and for the electric region;

(4) The strategy planned for ending the period of reliability impairment, describing the measures expected to be taken to reduce demand and/or to increase supply of power from sources other than the proposed plant that are either alternate fuel-fired or qualify for other exemptions;

(5) A calculation of the expected date of termination for the period of impairment. Several alternate termination dates may be specified, each corresponding to a different combination of major events that are beyond the control of the petitioner (such as delays in construction of a new

plant by a different utility in its electric region);

(6) An explanation of why there is not enough time to construct an alternate fuel-fired plant to prevent impairment of reliability of service or why there is not enough time to obtain one of the exemptions listed in paragraph (a) of this section;

(7) An explanation of why the type and size of the proposed plant is the most appropriate choice, considering the conditions of operation specified in paragraph (d) of this section;

(8) In addition, other relevant evidence may be included such as:

(i) Evidence that the reliability advantages of coordination on an electric region basis cannot be achieved to a sufficient extent to remove the "impairment of reliability" by the first year of operation, reasons for this deficiency, and an estimate of when such coordination could be implemented in the electric region; or

(ii) Evidence that the system has a unique situation that requires the use of different reliability criteria;

(9) No alternative power supply as required under § 503.8;

(10) Use of mixtures as required under § 503.9;

(11) Use of fluidized bed combustion not feasible as required under § 503.10;

(12) Conservation measures as required under § 503.13;

(13) Petroleum and natural gas consumption as required under § 503.14;

(14) Environmental impact analysis as required under § 503.15.

(d) *Terms and conditions.* Under this discretionary permanent exemption, a proposed unit will be permitted to operate only for the purposes of preventing an impairment of reliability of service. The "initial period of impairment" will extend from the date of initial operation of the proposed powerplant until the earliest date when the LOLP can be reduced to less than 1 day in 5 years by means of measures which are either in compliance with the prohibitions in the Act or which have qualified for other exemptions from these prohibitions. ERA, at the time it grants this exemption, will specify the expected termination date of the initial period of impairment. If circumstances beyond the control of the petitioner, which could not reasonably be anticipated at the time the petition was filed, cause the LOLP of the electric region to exceed 1 day in 5 years either at the end of this period or at any subsequent time, the petitioner may continue operation or recommence operation. A report must be made to ERA at the end of each calendar year specifying the amounts of oil and

natural gas used under this exemption. Detailed LOLP calculations to support the continuation or recommencement of operation must also be supplied.

(e) *Peakload use.* A petition for a peakload exemption may be submitted in addition to a petition for a reliability exemption for the proposed unit. Eligibility and evidence requirements of each exemption must be satisfied. If granted, separate reporting requirements will be required for each exemption.

§ 503.41 Peakload powerplants.

(a) *Eligibility.* (1) *Proposed use of petroleum.* Section 212(g) of the Act provides for a permanent exemption for peakload powerplants if a petitioner proposes to use petroleum as a primary energy source in a new peakload powerplant, and construct the unit without the capability to use an alternate fuel as a primary energy source. To qualify, a petitioner must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the powerplant.

(2) *Proposed use of natural gas.* Section 212(g) of the Act provides for a permanent exemption for peakload powerplants if a petitioner proposes to use natural gas as a primary energy source in a new peakload powerplant, and to construct the unit without the capability to use an alternate fuel as a primary energy source. To qualify—

(i) A petitioner must certify to ERA that the powerplant will be operated solely as a peakload powerplant and to meet peakload demand for the life of the powerplant; and

(ii) The Administrator of the EPA or the appropriate State air pollution control agency must certify that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the demonstration required by this section:

(1) *Combustion turbines.* If the petitioner's proposed peakload powerplant is to be a combustion turbine, the evidence required is:

(i) A duly executed certification that the powerplant is to be operated solely as a peakload powerplant and to meet peakload demand for the life of the plant. The certification must set forth the design capacity of the powerplant and the maximum allowable generation

of the powerplant in kilowatt hours according to the definition of peakload for each 12 months of operation as a peakload powerplant.

(ii) If a petitioner proposes to use natural gas as a primary energy source, an air quality certification must have been prepared for the Secretary by the Administrator of the EPA or the appropriate State air pollution control agency which meets the requirements contained in paragraph (a)(2)(ii) of this section.

(iii) A certification as required under § 503.15(b).

(2) *Other than combustion turbines.* If the proposed peakload powerplant is to be other than a combustion turbine powerplant, the petition must describe what constitutes peakload demand on the petitioner's system, how the peakload demand is to be met, including the projected order of dispatch of existing and proposed powerplants, and an estimate of the number of kilowatt hours that the proposed plant would generate during its first 12 months of operation to meet peakload demand.

(c) *Liability for operating in excess of exemption.* The operation of a peakload powerplant which has been granted this exemption in excess of that allowed by the exemption shall be subject to penalties under Title VII, Subtitle C of the Act unless it is demonstrated that the powerplant is operated to meet peakload demand as provided in Section 721(c) of the Act.

(d) *Reporting requirement.* If the petition is granted, the petitioner must report to ERA, at the end of each 12-month period from the first day of operation of the powerplant, and, if applicable, upon reaching the maximum number of kilowatt hours of permitted generation within each 12-month period, the name, location, and design capacity of the exempted unit, the number of hours of operation permitted by the exemption, and the number of hours of actual operation. In addition, whenever a petitioner operates his proposed powerplant in non-specified hours (hours not specified in accordance with paragraph (e) of this section), petitioner shall report the reason(s) for such operation.

(e) *Terms and conditions.* By petitioning for an exemption under paragraph (b)(1) of this section, the petitioner agrees upon grant of the exemption to be bound by the following terms and conditions:

(1) Petitioner shall not produce more kilowatt hours during any 12-month period than the product of the design capacity of the powerplant multiplied by 1500 hours.

(2) The petitioner shall certify as peak load hours those hours of each month in which petitioner's hourly load is expected to exceed 80 percent of the estimated monthly maximum hourly load. For example, 3:00-6:00 p.m. for April, March, October, November; 10:00 a.m.-8:00 p.m. May-September, and 8:00-10:00 a.m. and 4:00-7:00 p.m. December-February.

(3) The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

(4) Petitioner must comply with any terms and conditions which may be imposed pursuant to environmental requirements of § 503.15(b) of these regulations.

§ 503.42 Intermediate load powerplants.

(a) *Eligibility.* Section 212(h) of the Act provides for an exemption for use of petroleum as a primary energy source by intermediate load powerplants. To qualify, a petitioner must demonstrate to the satisfaction of ERA all of the following:

(1) The Administrator of the EPA or the appropriate State air pollution control agency has certified that the use of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded as described in paragraph (c) of this section.

(2) The powerplant to be constructed and operated will replace no more than the equivalent generating capacity of existing units which:

(i) Permanently cease operation within one month of commencement of operation of the new powerplant;

(ii) Use natural gas or petroleum as a primary energy source;

(iii) Are owned by the same person who is to operate the new powerplant; and

(iv) Would, if they burned coal, cause or contribute to a pollutant concentration in a manner described in paragraph (a)(1) of this section.

(3) The powerplant is to be operated only as an intermediate load powerplant in which the electrical generation (in kilowatt hours) for any 12-calendar-month period shall not exceed the powerplant's design capacity multiplied by 3,500 hours.

(4) The net heat input rate for the powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant.

(5) A petitioner is not entitled to any general use exemption under these regulations at the site of the proposed powerplant or at any reasonable alternate site.

(6) The powerplant is to be constructed with the capability to use a synthetic fuel derived from an alternate fuel as a primary energy source.

(b) *Evidence required in support of a petition.* A petition must include the following information in order to make the determination required by this section:

(1) An air quality certification of this unit prepared by the ERA or State air pollution control agency, meeting the requirements of paragraph (a)(1) of this section, including a listing of all alternative fuels covered by the certification;

(2) A description of the existing powerplants to be replaced by the new intermediate load powerplant which shall include—

(i) The name and location of each of the existing powerplants;

(ii) The volume of fuel consumed by type for the previous 2 years by the existing powerplants; and

(iii) The reasons for claiming that the existing powerplants would cause or contribute to a pollutant concentration if they used coal as a primary energy source;

(3) An affidavit executed by a duly authorized officer of the electric utility which will operate the proposed powerplant certifying that the powerplant shall be operated at all times in the future only as an intermediate load powerplant. The certification shall set forth the design capacity of the proposed powerplant and the maximum allowable generation of the proposed powerplant in kilowatt hours for its first 12 months of operation as an intermediate load powerplant;

(4) An affidavit executed by a duly authorized officer and a qualified engineer of the utility operating the powerplant which certifies that the powerplant will be maintained (operated) at a net heat input rate of 9,500 Btu's per kilowatt hour or less throughout the useful life of the powerplant;

(5) An affidavit executed by a duly authorized officer and a qualified engineer of the operating utility certifying that the powerplant will meet the synthetic fuels capability requirement described in paragraph (a)(6) of this section, identifying the specific synthetic fuels, and agreeing to cease using petroleum when ERA has found that such synthetic fuels are available;

(6) An analysis of the reasons the petitioner cannot qualify for any general use exemption. This analysis should cover all reasonable alternate fuels at the site of the proposed powerplant or at any other reasonable alternate site. In addition, the petitioner must identify the type of plant it could construct and the alternate fuel it could burn for each site examined.

(7) Identification of the synthetic fuel(s) the proposed plant is designed to use, with appropriate documentation including:

(i) The expected source of synthetic fuel, if known;

(ii) The year when the synthetic fuel is expected to be available in adequate quantity at an acceptable price;

(iii) Estimates of the future prices of the synthetic fuel the proposed plant would be designed to use;

(iv) Federal role, if any, in developing the facilities to produce the synthetic fuel;

(v) The special features of the proposed plant that will enable it to use synthetic fuel(s);

(vi) The petitioner's basis for believing that these fuels can be burned in its proposed plant in conformance with applicable Federal and State environmental standards;

(8) No alternate power supply as required under § 503.8;

(9) Use of mixtures as required under § 503.9;

(10) Use of fluidized bed combustion not feasible as required under § 503.10;

(11) Conservation measures as required under § 503.13;

(12) Petroleum and natural gas consumption as required under § 503.14;

(13) Environmental impact analysis as required under § 503.15; and

(14) Fuels search as required under § 503.16.

(c) *Terms and conditions.* ERA, if it grants this exemption, will limit the amount of oil to be used by the proposed powerplant. In general, ERA will require that the granting of this exemption will result in a reduction in oil or natural gas use or a reduction in the rate of increase of oil and natural gas use by the system. The reduction in oil or natural gas use would be achieved by ceasing operation of the applicable existing units and by employing the more efficient proposed unit in their place.

(d) *Reporting requirement.* If the petition is granted, the petitioner must report to ERA, at the end of each 12-month period from the first day of the month following the effective date of the exemption and, if applicable, upon reaching the maximum number of hours of permitted operation within each 12-month period, the number of kilowatt

hours of actual operation. The petitioner must also report at the same time the amount of petroleum or natural gas used by the unit and the total amount of petroleum or natural gas by all units in petitioner's system.

(e) *Periodic review.* ERA shall, from time to time, review this exemption and the exemption shall terminate when ERA finds that there is available a supply of synthetic fuel suitable for use by the exemption powerplant.

§ 503.43 Scheduled equipment outages for installations.

(a) *Eligibility.* Section 212(j) of the Act provides for a permanent exemption for installations to meet scheduled equipment outages. To qualify a petitioner must demonstrate that:

(1) The petitioner's routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) If scheduled outages and, thereby, projected use of the proposed unit exceeds an average of 28 days per year over a three-year period, the petitioner cannot meet its requirements by burning an alternate fuel; and

(3) The pertinent unit will be used only during those periods when other units are not in operation for reason of scheduled outage.

(b) *Evidence required in support of a petition.* To submit an adequate petition for review by ERA, a petition must include the following information in order to make the demonstration required by this section:

(1) An explanation of why petitioner's routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption;

(2) A schedule of operation for the pertinent unit estimating the number of hours per year used and fuel consumed on an annual basis;

(3) A description of the maintenance schedule for all units located at the facility specifically identifying those units at the facility which will be out of service for scheduled maintenance at times when the proposed unit is operating; and

(4) Demonstration that the use of a mixture of petroleum or natural gas and an alternate fuel as required under § 503.9 is not economically or technically feasible.

(5) Conservation measures as required under § 503.13;

(6) Petroleum and natural gas consumption as required under § 503.14;

(7) Environmental Impact Analysis as required under § 503.15.

(8) Fuels search as required under § 503.16.

(c) *Certification alternative for use less than 28 days per year.* If use of the proposed unit is not to exceed an average of 28 days per year over a three-year period, the petitioner may, in lieu of the requirement of paragraph (b) of this section, substitute the following:

(1) A duly executed certification that routine maintenance schedule does not permit, or could not be adjusted to permit continuing production or other activity carried on at a site unless ERA grants this exemption;

(2) That the use of the proposed unit will not exceed an average of 28 days per year over a three-year period; and

(3) That the unit will be used only during those periods when other units are not in operation for reason of scheduled outage in accordance with a schedule of operation submitted simultaneously which contains an estimate of the annual number of days used and fuel consumed.

(4) Use of a mixture of petroleum or natural gas and an alternate fuel is not commercially and technically feasible; and

(5) Certification as required under § 503.15(b).

(d) *Terms and conditions.* By petitioning for an exemption under paragraph (b)(1) of this section, the petitioner agrees, upon grant of the exemption, to the following terms and conditions:

(1) The MFBI will only be operated for use necessary to meet scheduled equipment outages;

(2) Use of the MFBI will not exceed an average of 28 days per year over a three-year period.

(3) All steam pipes must be insulated and all steam traps properly maintained.

(4) The quality of any petroleum to be burned in the installation as a primary energy source will be of the lowest grade available which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(5) Petitioner must comply with any terms and conditions which may be imposed pursuant to environmental requirements of § 503.15(b) of these regulations.

(e) *Reporting requirement.* ERA will rely upon the schedule of operation submitted with the petition as the permanent schedule for exempt use. The petitioner must notify ERA in advance of any changes to this schedule.

(f) *Emergency use.* A petition for an emergency exemption may be submitted in addition to a petition for a scheduled

equipment outage. Eligibility and evidence requirements of each exemption must be satisfied. If granted, separate reporting requirements will be required for each exemption.

§ 503.44 Product or process requirements [Reserved].

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

4. Section 505.5 the interim rule (published at 44 FR 28998, May 17, 1979) is revoked, effective June 6, 1980.

5. Section 505.27 (Cogeneration) remains in effect. The Economic Regulatory Administration intends to issue a Notice of Proposed Rulemaking before issuing final regulations implementing the Cogeneration Exemption. Section 505.27 will remain in effect until superseded by a final rule.

6. The remainder of Part 505 is deleted, effective August 5, 1980.

[FR Doc. 80-17306 Filed 6-5-80; 8:45 am]

BILLING CODE 6450-01-M

Forest Land

Friday
June 6, 1980

Part VI

Department of Agriculture

Forest Service

National Forest System Land; Special
Uses

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

National Forest System Land; Special Uses

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking revises the regulations governing authorizations for the occupancy of land and conduct of special use activities on National Forest System land. It does not include those activities covered elsewhere in this Chapter on the disposal of timber, minerals and mineral materials, and livestock grazing.

The provisions for issuing rights-of-way have been expanded and changed. These changes are necessary to implement Title V of the Federal Land Policy and Management Act of 1976 (FLPMA). Procedures for authorizing other kinds of special uses are not significantly changed.

EFFECTIVE DATE: July 7, 1980.

ADDRESS: A copy of these final rules may be obtained from: Chief, USDA, Forest Service (L), P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: S. W. Van Doran or William R. Boring, Foresters, Lands Staff, Forest Service, USDA P.O. Box 2417, Washington, DC 20013, (703/235-8107). The combined Environmental Assessment and Impact Analysis describing the options considered in developing this final rule and impact of implementing each option is available on request.

SUPPLEMENTARY INFORMATION: Proposed rules were published in the *Federal Register* on May 18, 1979. (44 FR 29107) The preamble to the proposed rules described the coordinated effort between the Bureau of Land Management (BLM) and the Forest Service (FS) to develop rules that would be procedurally similar, and also the public participation that was obtained up to that point. The final rules contained herein reflect the additional public and agency comments received following publication of the proposed rules.

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

PUBLIC PARTICIPATION: While 90 days were specified as the period for receiving comments on the proposed

rules, all comments were given careful consideration regardless of when they actually were received. There were 27 respondents. Substantive comments are discussed below.

ANALYSIS OF COMMENTS: Many of the changes appearing in these final rules are merely editorial and are not discussed unless they are significant. Nearly all comments were constructive and of great help in drafting the final rules. The Forest Service appreciates having this valuable input. A section-by-section analysis follows.

§ 251.50 Special uses.

One commenter requested that "emergency" be defined. We believe the common dictionary definition is adequate without further elaboration here.

§ 251.51 Definitions.

It was suggested that "easement" be further defined to include the possibility that it could be permanent and that easements, leases, and term permits be compensable if revoked by the Government prior to their normal expiration. Neither the legislative history nor FLPMA provide for permanency in easements. FLPMA limits rights-of-way to "a reasonable term" (Sec. 504(b)). We have revised the definition of "easement" to include compensability. Another commenter wondered if special use "permits" would be necessary in the case of State-Federal cooperative wildlife management areas, for example. These have been authorized by various forms of documents in the past, and we will continue the practice pursuant to existing authorities. Whether or not land use fees are charged will be based on the criteria in § 251.57.

§ 251.52 Delegation of authority.

A commenter stressed use of the A-95 process, State Clearinghouse procedures, and other consultative and public review of proposed authorizing actions. These are covered in § 251.54(f), "Processing Applications."

§ 251.53 Authorities.

A commenter stated that all permit actions proposed should be subject to environmental review procedures and that projects be authorized only when they comply with Federal and State water quality laws and regulations. It is not feasible for us to list all the laws and regulations which surround the authorization and conduct of special uses. The authorized officer is responsible for seeing that any authorization issued conforms with "applicable laws, regulation, and

orders" (§ 251.54(f)). These would include water quality requirements.

Several commenters question our authority to require a Forest Service right-of-way authorization for projects also subject to licensing by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act. The Department of Agriculture's Office of the General Counsel has advised that in their opinion, the plain meaning of FLPMA, as well as the legislative history, clearly demonstrates that Congress intended that the Secretary of Agriculture exercise the authority to issue rights-of-way to FERC permittees and licensees for constructing hydroelectric facilities, including primary lines, upon National Forest Systems (NFS) land. This authority has been delegated to the Forest Service.

The authority for the Secretary to issue rights-of-way for electrical systems is specifically provided for in FLPMA's Section 501(a)(4) and governs the application of rights-of-way across NFS land. Section 701 of FLPMA should not be read to thwart the legislative purpose or the plain meaning of the Act. Section 701(g) simply provides that nothing in FLPMA should be construed as limiting or restricting the power and authority of the United States, "except as specifically set forth in this Act * * *." Section 501(a)(4) specifically authorizes both FERC and the Secretary of Agriculture to grant licenses and permits for hydroelectric facilities. The word "also" in Section 501(a)(4) clearly denotes that a licensee or permittee is to comply with FERC as well as USDA regulations.

Prior to the enactment of FLPMA, previous bills and amendments were introduced in Congress and defeated which would have specifically changed the language in Section 501(a) to limit the Secretary of Agriculture's authority to prior statutes in siting systems for generating electrical energy on public lands. The fact that these provisions were omitted from FLPMA, as finally passed, is significant and cannot now be construed as embracing the effect of the language rejected. Discussions on the hearings on H.R. 1377 before the Committee of the Whole House on the State of the Union, 94th Congress, 2d Session 77619 (1976), reveals unequivocally that Congress did intend to expand the authority of the Secretary of Agriculture with respect to siting plants.

Therefore, we will implement this authority as proposed earlier. We will condition these types of rights-of-way to require the meeting of FERC licensing requirements and will cooperate with FERC to assure that project licensing

and our authorizing of the necessary NFS rights-of-way are coordinated and processed in timely fashion.

One commenter said that a right-of-way is generally regarded as a "long narrow strip of land of even width" and with that definition, how could we grant a right-of-way for a large reservoir with an irregular shoreline? We believe that FLPMA's specific inclusion of "reservoirs" in its categorization of rights-of-way (Sec. 501(a) speaks for itself. A comparison of FLPMA Section 501(a) with § 251.53(l) of this part will show that we used FLPMA's wording essentially without change. We did expand § 251.53(l)(4) for clarification. We also added wording that Federal Departments and Agencies would be authorized rights-of-way under FLPMA for oil and gas pipelines since § 251.53(e) is not applicable to Federal government entities.

§ 251.54(a) *Preapplication activity.*

In response to comments, we changed the reference to cost reimbursement to read "fees, charges, bonding, and security." Another commenter suggested that we include in the regulations more information on the relation between the special use application and land management plans and planning. We believe the pre-application discussions are a better forum for this than formal rulemaking. Land management planning is a continually evolving process. Local Forest Officers will be in the best position to discuss these aspects with potential applicants.

§ 251.54(b) *Filing applications.*

A ten-day (working days) time limit for acknowledging receipt of an application was suggested. This would seem a reasonable time, but we prefer to establish guides for timeliness through management rather than rulemaking. How fast we can respond depends on the workload, personnel staffing, and funds. All three are often beyond our control. A deluge of applications, emergencies, personnel ceilings, and budget constraints can affect our activities. Rulemaking is not a viable remedy in these cases.

§ 251.54(c) *Coordination of application.*

Three comments expressed concern over our language making some kinds of authorizations contingent on having other licenses or permits, and the filing of simultaneous applications. We do not intend to create a "chicken and egg" situation. Our intent is to make sure a Forest Service authorization is not considered by anyone to be a substitute for documents required by other laws. It is not feasible to cite them all. We are

revising our wording, however, to use the words "will be conditioned to require" such other authorization instead of "contingent" so as not to imply that issuance of a Forest Service authorization would necessarily be held up until the applicant had in hand the other document.

§ 251.54(d) *Rights of applicants.*

A commenter asked that we amend the sentence to read, "No rights or use privileges *aside from those already conveyed by statute or regulation* are conveyed without written authorization" (added words emphasized). We believe the added words are unnecessary. The intent of the sentence is to make clear that the *filing* of an application does not bestow upon the applicant any rights or use privileges. Any that he might have by operation of law or other regulation are not affected.

§ 251.54(e) *Application content.*

We have simplified and clarified this section in response to several comments. Information on shareholders (1)(iv) is required by FLPMA and the Mineral Leasing Act. The authorized officer will exercise discretion, however, and will call for such information only when it is determined to be necessary.

§ 251.54(f) *Processing applications.*

Minor changes were made for clarification purposes. A commenter suggested adding wording that if a public meeting were to be held concerning an application where a concurrent license application had also been filed with the Federal Energy Regulatory Commission, a Commission staff member "shall" attend. The decision on whether to attend or be represented at such meetings is a matter for each interested party to determine. It would not be proper for us to specify attendance.

§ 251.54(g) *Special application procedures.*

The paragraph regarding non-citizen interests has been changed slightly to reflect "appreciable" interest rather than "any" interest. This change is consistent with BLM's final oil and gas pipelines regulations, 43 CFR 2882.2-1. A commenter pointed out that a foreign holder of even a single share of common stock of an applicant company could cause denial of the application under the previous wording.

§ 251.54(g)(2) *Electric transmission lines 66KV or over.*

A commenter requested that the threshold voltage for application of the special procedures for electric power

transmission lines be raised from 66KV to 115KV. This was addressed in the amendment two years ago (42 FR 59386) to the former § 251.52 of this part when the threshold was raised from 33KV to the present 66KV. If industry practices have changed or other sufficient reasons exist for a further increase, we will be glad to consider it in future rulemaking.

§ 251.54(h) *Denial.*

In response to several commenters, we have added grounds for denial of applications. These are similar to BLM's proposed rules (44 FR 58118).

§ 251.55 *Nature of interest.*

A commenter suggested that our right to require common use of the land (e.g. rights-of-way) could work to the economic advantage (or disadvantage) of some of the common users. A case in point is where an initial user incurs all the development costs for a new right-of-way, but common users then come in at a later time and participate in the benefit but not the development cost. We are now providing our authorized officers the authority to require a new common holder to reimburse existing holders a share of development or other costs that in fairness should be shared by benefitting common users.

§ 254.56(a) *Terms and conditions, general.*

No substantive changes were recommended. Some commenters suggested the language was too broad but we believe having it so will allow better flexibility in tailoring authorizations to fit the actual situation. This should benefit holders as well as assuring proper use of the land.

§ 251.56(b) *Duration and renewability.*

Duration and renewability are related to the basic statutory authorities for the various kinds of special uses. Our final rules are unchanged from those proposed because in our opinion, they accurately convey the intent of FLPMA and the other authorizing statutes. We should emphasize that FLPMA gives us broader authority than we have had before to issue long-term authorizations where it is appropriate.

§ 251.56(c) *Preconstruction approvals.*

A commenter suggested adding language to not require Forest Service construction plan approvals in situations where another Federal agency was also involved in the same plan review and approvals, or the facilities are constructed in accordance with established Federal standards such as those covering gas pipelines. The Forest Service cannot abdicate its

responsibility concerning the administration of National Forest System lands but there are opportunities to avoid needless duplication of such things as plan reviews. Through an interagency agreement, for example, the Forest Service may accept the findings of another Federal agency in lieu of its own detailed review. Revision of the rule will not be necessary to continue this policy.

§ 251.56(d) *Liability.*

Comments on liability centered on strict liability or so-called liability without fault, and were either in complete opposition or suggested lower limits. We believe the rationale for liability without regard to negligence has been adequately addressed in both the Forest Service (44 FR 29112) and the BLM (44 FR 58113) proposed rules. Its use is well established in authorizations such as those under the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185). Such liability will be imposed where special risks or hazards are present. The maximum will be commensurate with the risks or hazards, as determined by the authorized officer. Our proposed language was not clear, however, that a holder is liable only for loss or damage resulting from and in connection with the holder's use and occupancy. We are revising the section to clarify that. Further revisions were also made to add "for any one occurrence" and to specify that where a determination of negligence is necessary the laws would be used of the jurisdiction where the damage or injury occurred. We believe that by using these final rules to guide, specific language can be developed for special use authorizations that will be equitable to both the Government and the holder.

§ 251.56(e) *Bonding.*

Commenters generally thought too much discretion was allowed the authorized officer. Guidelines for bonding requirements are found in the Forest Service Manual, and will be discussed with potential applicants during pre-application discussions (§ 251.54(a)).

§ 251.56(f) *Special terms and conditions.*

Commenters asked whether the Forest Service intended to regulate the rates charged by public service holders whose rates are already regulated by other governmental agencies. This is not our intent and we have clarified paragraph (1). We have not changed any of the text dealing with electric power transmission facilities except to edit and to delete former wording determined to be in

conflict with our definition of easements. These rules have been in effect for many years and deal principally with matters between the holder and the Department of Energy (DOE). DOE has not requested that the rules be modified so we have taken no other action to change them.

§ 251.57 *Rental fees.*

One commenter questioned the term "sound business management principle" as being too nebulous, but we are hard-pressed to describe it otherwise in more meaningful terms. The commenter also suggested that non-profitability should not preclude the charging of a rental fee, because a non-profit organization could be in direct competition for services provided by a profit-making enterprise. We agree with the commenter. Non-federal applicants or holders would rarely qualify under our rules for free use if the service they provide is in direct competition with, and provided by, a commercial service. The present wording "equitable and in the public interest" would ordinarily rule out free use in such cases. No rule change appears necessary in this regard, although we are adding language that free use will not be allowed when funds derived by the holder through the authorization are used to increase the value of the authorized improvements owned by the holder, or are used to support other activities of the holder. This policy has been in effect for many years.

A few commenters object to annual rental fees for rights-of-way and propose that only a "one-time" charge be made. We cannot do this because Section 504(g) of FLPMA is very specific that, "The holder of a right-of-way shall pay annually in advance . . ." (Emphasis added). FLPMA does not allow us to require payment for more than a year in advance when the annual rental is less than \$100, and we have provided for that.

Some commenters objected to our having the authority to initiate or adjust rental fees at any time. Each special use authorization usually includes the terms for adjusting fees. We have amended the rule to make it clear that the terms of the authorization will actually govern fee adjustments in a specific case.

§ 251.58 *Cost reimbursement.*

As mentioned in the preamble to our proposed rules, we are reserving the section on cost reimbursement for later rulemaking.

§ 251.59 *Transfer of special use privileges.*

A commenter concludes that permanent easements will not be granted, but even so, easements should not require approval for transfer or include provisions that would add new conditions and stipulations over time. Other commenters asked that all special use authorizations be freely transferable by the holders. Similar comments were addressed in the preamble to our proposed rules. To avoid unnecessary redundancy, we refer to our responses in 44 FR 29111-29112. The legislative history related to these matters provided our direction, as well as FLPMA itself.

§ 251.60 *Termination and suspension.*

A commenter suggested we add "or with the concurrence of the permit holder" as another reason for terminating permits (b). This is not necessary because (a)(3) covers it. Another suggestion was to require concurrence of a federal agency served by a holder's right-of-way prior to termination of the authorization. We have modified the suggested change to state that advance notice will be given the Federal agency in such cases. Another comment was that we provide a period of not less than one year to cure any noncompliance. We believe a "reasonable" period is better. One year might be far too long if serious consequences were resulting from the noncompliance. A suggestion was made to not require the removal of underground structures in the event of termination. We believe this should be evaluated on a case-by-case basis and our final rule does make provision for exceptions when appropriate. A commenter asked that "restore" be defined to include vegetative cover to enhance wildlife habitat and to minimize erosion and stream siltation, and that recommendations of State fish and wildlife agencies should be followed. We agree that these things are desirable, but they may not be appropriate in every circumstance. We believe the common dictionary definition of "restore" is all-inclusive, however, and will permit the latitude to require what is needed. Another commenter recommended that we amend (d) to require a joint on-the-ground review with another Federal agency if that agency has also issued a license or other authorization for the activity, and that we not take action to suspend, modify, terminate, etc., without the concurrence of that agency. Regulations for these matters are not deemed necessary. The Forest Service must retain its final decisionmaking responsibility, but prior

to such action will notify and seek the concurrence of other agencies that may be involved. Policy and direction to authorized officers regarding special use authorizations are found in the Forest Service Manual, Title 2700.

§ 251.61 Modification.

In response to a commenter's suggestion, we added a paragraph clarifying that the findings or recommendations of other agencies will be considered.

§ 251.63 Reciprocity.

This section has been added to incorporate our existing authority for reciprocal road rights-of-way (§ 212.10) and to extend the principle to all kinds of rights-of-way.

§ 251.64 Renewals.

This section has been added to clarify the requirements for renewal of special use authorizations. Two situations exist on renewals. If the authorization provides for renewal, it will be renewed subject to certain conditions. If the authorization did not provide for renewal, then renewal is discretionary with the authorized officer.

Redesignation of Sections

In addition to amending the text, the sections in Part 251 have been reorganized.

The following table shows the relationship of the regulations before and after the redesignation.

Prior designation, Subject and Moved to

- 251.1(a) and (d) Special uses; 251.50
- 251.1(b)(1) Delegations; 251.52
- 251.1(b)(2) Terms; 251.56
- 251.1(b)(3) Termination; 251.60
- 251.1(b)(4) Transfer; 251.59
- 251.1(b)(5) Reasonable rates; 251.56(f)(i)
- 251.1(c) Other authorizations; 251.53
- 251.2 Free use; 251.57(b)
- 251.3 Charges; 251.57
- 251.6 Exchange of use; Deleted, now unnecessary, conflicts with Title IV FLPMA
- 251.7 Alaskan home and industrial sites; Deleted, made ineffective by the National Forest Management Act of 1976 and Pub. L. 95-174.
- 251.8 Community improvements; Deleted, this now falls under Title V FLPMA.
- 251.50-56 Act of March 4, 1911, Procedures; Replaced by Title V FLPMA.

In light of the foregoing, 36 CFR Part 251—Land Uses is amended as follows:

1. By revising the table of contents to read:

PART 251—LAND USES

Common Mineral Materials

- Sec.
- 251.4 Disposal of materials.

Sec.

- 251.4a Use and disposal of materials in acquired and related lands.

Natural Resources Control.

- 251.9 Management of municipal watersheds.
- 251.10 Prohibition of location of mining claims within certain areas in the Custer State Park Game Sanctuary, South Dakota.
- 251.11 Governing mining locations under the mining laws of the United States within that portion of the Harney National Forest, State of South Dakota, designated as the Custer State Park Game Sanctuary.
- 251.14 Conditions, rules, and regulations to govern exercise of timber rights reserved in conveyances to the United States.
- 251.15 Conditions, rules, and regulations to govern exercise of mineral rights reserved in conveyances to the United States.

Rights of Grantors

- 251.17 Grantor's right to occupy and use lands conveyed to the United States.
- 251.18 Rights-of-way reserved by the grantor on lands conveyed to the United States.
- 251.19 Exercise of water rights reserved by the grantor of lands conveyed to the United States.

Designation of Areas

- 251.23 Experimental areas and research natural areas.

Petersburg Watershed

- 251.35 Petersburg Watershed.

Special Uses

- 251.50 Special uses.
- 251.51 Definitions.
- 251.52 Delegation of authority.
- 251.53 Authorities.
- 251.54 Special use applications.
- 251.55 Nature of interest.
- 251.56 Terms and conditions.
- 251.57 Rental fees.
- 251.58 Cost reimbursement. [Reserved]
- 251.59 Transfer of special use privileges.
- 251.60 Termination, revocation, and suspension.
- 251.61 Modifications.
- 251.62 Acceptance.
- 251.63 Reciprocity.
- 251.64 Renewals.

Authority: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472), 90 Stat. 2776 (43 U.S.C. 1761-1771), unless otherwise noted.

Special Use Permits (Heading Changed to Common Mineral Materials)

§§ 251.1-251.3 and 251.6-251.8 [Revoked]

2. By changing the heading of the first subpart from Special Use Permits to Common Mineral Materials and by revoking §§ 251.1 through 251.3 and 251.6 through 251.8.

Rights-of-Way for Electric Power Transmission Lines (Heading Changed to Special Uses)

3. By changing the heading of the last subpart from Rights-of-way for Electric Power Transmission Lines to Special Uses and by revising the subpart to read as follows:

Special Uses

§ 251.50 Special uses.

(a) All uses of National Forest System land, improvements and resources, except those provided for in the regulations governing the disposal of timber (§ 223), minerals, and mineral materials (§ 252), and the grazing of livestock (§ 222), are designated "special uses," and must be authorized by an authorized officer.

(b) Nothing in this section prohibits the temporary occupancy of National Forest System land for the protection of life or property in emergencies, if a special use authorization for such use is obtained at the earliest opportunity.

(c) The noncommercial temporary use or occupancy of National Forest System land or facilities by individuals for camping, picnicking, hiking, fishing, hunting, riding, boating, parking of vehicles and similar purposes is allowed without a special use authorization if the prescribed fee is paid for use or occupancy of sites having an established schedule of fees. A special use authorization may be required for such use or occupancy when, in the judgment of the Chief, the public interest or the protection of the land requires it.

(d) Use of existing forest development roads and trails is allowed without a special use authorization subject to compliance with all Federal and State laws governing the roads or trails to be used.

§ 251.51 Definitions.

(a) "Applicant"—any individual, partnership, corporation, association, or other business entity, and any Federal, State or governmental entity or agency which applies for a special use authorization.

(b) "Authorized officer"—any employee of the Forest Service to whom has been delegated the authority to perform the duties described in this part.

(c) "Chief"—the Chief of the Forest Service.

(d) "Easement"—a special use authorization for a right-of-way that conveys a conditioned interest in National Forest System land, and is compensable according to its terms.

(e) "Holder"—any applicant who has received a special use authorization.

(f) "Lease"—a special use authorization which conveys a right of occupancy and use of National Forest System land or facility for a specified period and purpose, and is both revocable and compensable according to its terms.

(g) "National Forest System land"—all lands, waters, or interests therein administered by the Forest Service.

(h) "Permit"—a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land or facilities for specified purposes, and which is both revocable and terminable.

(i) "Right-of-way"—land authorized to be used or occupied for the construction, operation, maintenance and termination of a project or facility passing over, upon, under or through such land.

(j) "Secretary"—the Secretary of Agriculture.

(k) "Special use authorization"—a permit, term permit, lease, or easement which allows occupancy, use, rights, or privileges of National Forest System land.

(l) "Term Permit"—a special use authorization to occupy and use National Forest System land, other than rights-of-way under § 251.53(l) of this part, for a specified period which is both revocable and compensable according to its terms.

§ 251.52 Delegation of authority.

Special use authorizations shall be issued, granted, amended, renewed, suspended, terminated, or revoked by the Chief, or through delegation, by the Regional Forester, Forest Supervisor, District Ranger or other forest officer, and shall be in such form and contain such terms, stipulations, conditions, and agreements as may be required by the regulations of the Secretary and the instructions of the Chief (7 CFR Part 2.60; 36 CFR Part 200, Subpart B).

§ 251.53 Authorities.

Special use authorizations may be issued for:

(a) Permits governing occupancy and use under the Act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

(b) Leases under the Act of February 28, 1899, 30 Stat. 908 (16 U.S.C. 495) for public sanitariums or hotels near or adjacent to mineral springs;

(c) Permits under the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431, et seq.), for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity in conformity with the rules and regulations prescribed by the Secretaries of the Interior, Agriculture,

and War, December 28, 1906 (43 CFR Part 3);

(d) Term permits under the Act of March 4, 1915, 38 Stat. 1101, as amended, 70 Stat. 708 (16 U.S.C. 497) for periods not over 30 years and (1) for not over 80 acres for (a) hotels, resorts, and other structures and facilities for recreation, public convenience, or safety; (b) industrial or commercial purposes; and (c) education or public activities; and (2) for not over 5 acres for summer homes and stores;

(e) Easements for rights-of-way for pipeline purposes for the transportation of oil and gas and products thereof where no Federal land other than National Forest System land is required, and permits for the temporary use of additional National Forest System land necessary for construction, operation, maintenance or termination of a pipeline or to protect the natural environment or the public safety under Section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, (30 U.S.C. 185);

(f) Permits, term permits, and easements in the National Grasslands and other lands acquired or administered under Title III, Act of July 22, 1937, 50 Stat. 525, as amended, (7 U.S.C. 1011(d));

(g) Permits under Section 7 of the Act of April 24, 1950, 64 Stat. 84 (16 U.S.C. 580d) for periods not over 30 years for the use of structures or improvements under the administrative control of the Forest Service and land used in connection therewith;

(h) Permits, term permits, leases, or easements as authorized by the Act of September 3, 1954, 68 Stat. 1146 (43 U.S.C. 931c, 931d), to States, counties, cities, towns, townships, municipal corporations, or other public agencies for periods not over 30 years, at prices representing the fair market value, fixed by the Chief, through appraisal for the purpose of constructing and maintaining on such lands public buildings or other public works;

(i) Permits under the Wilderness Act of September 3, 1964, 78 Stat. 890 (16 U.S.C. 1131-36) for temporary structures and commercial services and for access to valid mining claims or other valid occupancies and to surrounded State or private land within designated wilderness (see § 293 of this chapter);

(j) Temporary or permanent easements under the Act of October 13, 1964, 78 Stat. 1089 (16 U.S.C. 532-538) for road rights-of-way over lands and interests in land administered by the Forest Service (see § 212.10 of this chapter);

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 86 Stat. 459, as amended, (16 U.S.C.

460 1-6a(c)), for group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses;

(l) Permits, leases and easements under the Federal Land Policy and Management Act of 1976, 90 Stat. 2776 (43 U.S.C. 1761-71) for rights-of-way for:

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) Systems and related facilities for generation, transmission, and distribution of electric energy, except that the applicant, in addition to obtaining a Forest Service special use authorization, shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, as amended, 49 Stat. 838 (16 U.S.C. 791a, et seq.);

(5) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals and other means of communication;

(6) Roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities;

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through National Forest System lands; and

(8) Any Federal department or agency for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any product produced therefrom;

(m) Permits under the Archaeological Resources Protection Act of 1979, 93 Stat. 721 (16 U.S.C. 470aa).

§ 251.54 Special use applications.

(a) *Preapplication activity.* When occupancy and/or use of National Forest System land is desired, a proponent is encouraged to contact the

Forest Service office(s) responsible for management of the affected land as early as possible so potential constraints may be identified, the proposal can be considered in land management plans, and processing of an application can be tentatively scheduled. The proponent will be given guidance and information about: (1) possible land use conflicts as identified by review of land management plans, landownership records, and other readily available information sources; (2) application procedures and probable time requirements; (3) applicant qualifications; (4) fees, charges, bonding and security requirements; (5) necessary associated clearances, permits, and licenses; (6) environmental and management considerations; (7) special conditions; and (8) identification of on-the-ground investigations which will require temporary use permits. If requested by the proponent, the Forest Service officer will, to the extent reasonable and authorized by law, not disclose project and program information revealed during preapplication contacts.

(b) *Filing applications.* Applications for special uses will be filed with the District Ranger or Forest Supervisor having jurisdiction over the affected land (§ 200.2 of this chapter) except:

(1) Applications for projects on lands under the jurisdiction of two or more administrative units of the Forest Service may be filed at the most convenient Forest Service office having jurisdiction over part of the project and the applicant will be notified where subsequent communications should be directed;

(2) Applications for cost-share and other road easements to be issued under § 251.53(f) will be filed in accordance with regulations in § 212.10 (c) and (d) of this chapter; and

(3) Applications for oil and gas pipeline rights-of-way crossing Federal lands under the jurisdiction of two or more Federal agencies shall be filed with the State Office, Bureau of Land Management, pursuant to regulations in 43 CFR 2882.

(c) *Coordination of applications.* Authorizations for use of National Forest System land may be conditioned to require State, county, or other Federal agency license, permit, certificate or other approval document, such as Federal Communication Commission license, Federal Energy Regulatory Commission license, State water right, or county building permit. Applicants filing applications with such agencies for a project, will simultaneously file an application with the Forest Service

under this section. To minimize duplication, pertinent information from the application made to the other agency can be attached and referred to in the Forest Service application.

(d) *Rights of applicants.* No rights or use privileges are conveyed without a special use authorization.

(e) *Application content.* As a minimum, applications shall include the information contained in paragraphs (e)(1) through (5) of this section.

(1) *Applicant identification.* Identification of the applicant shall be sufficient that the Government will know the true identity of the entity and/or individuals applying. The authorized officer shall give due deference to the findings of another agency such as a public utility commission, the Federal Energy Regulatory Commission, or the Interstate Commerce Commission, in lieu of another detailed finding. If this information is already on file with the Forest Service, it need not be refiled if reference is made to the previous filing date, place and case number. The applicant's name and address is required and, if the applicant is not an individual, the name and address of the applicant's agent who is authorized to receive notice of actions pertaining to the application. If called for by the authorized officer, an applicant in one of the following categories shall also furnish the additional information listed:

(i) A State and local government agency: a copy of the authorization under which the application is made;

(ii) A public corporation: the statute or other authority under which it was organized;

(iii) A Federal government agency: the title of the agency official delegated the authority to file the application;

(iv) A private corporation: (A) evidence of incorporation and its current good standing; (B) if reasonably obtainable by the applicant, the name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; (C) the name and address of each affiliate of the entity; (D) in the case of an affiliate which is controlled by the entity, the number of shares and the percentage of any class of voting stock of the affiliate that the entity owns either directly or indirectly; or (E) in the case of an affiliate which controls that entity, the number of shares and the percentage of any class or voting stock of that entity owned, either directly or indirectly, by the affiliate; or

(v) A partnership, association or other unincorporated entity: a certified copy

of the partnership agreement or other similar document, if any, creating the entity, or a certificate of good standing under the laws of the State.

(2) *Technical and financial capability.* Sufficient evidence will be required to satisfy the authorized officer that the applicant has, or prior to commencement of construction will have, the technical and financial capability to construct, operate, maintain, and terminate the project for which authorization is requested, and is otherwise acceptable.

(3) *Project description.* A project description, including map(s), shall be required in sufficient detail to enable the authorized officer to determine: the feasibility of the project or activity proposed, its impacts on the environment, any benefits provided to the public, the safety of the proposal, the lands to be occupied or used, the terms and conditions to be included, and whether the proposal will comply with applicable laws, regulations and orders.

(4) *Environmental protection plan.* The applicant's proposed measures and plans for the protection and rehabilitation of the environment during construction, operation, maintenance, and termination of the project shall be required.

(5) *Additional information.* The authorized officer may require any other information and data necessary to determine feasibility of the project or activity proposed; impacts on the environment; compliance with applicable laws, regulations, and orders; compliance with requirements for associated clearances, certificates, permits, or licenses; and suitable terms and conditions to be included in the authorization. Requests for additional information if needed will be in writing.

(f) *Processing applications.* The authorized officer will acknowledge receipt of the application in writing.

(1) The authorized officer will assess the applicant's qualifications; complete an environmental analysis, assessment and/or an environmental impact statement under the National Environmental Policy Act of 1969; determine compliance with other applicable laws, regulations and orders; consult with other agencies, local officials, or interested parties and hold public meetings upon reasonable notice when sufficient interest exists to warrant the time and expense; and take any other action necessary to fully evaluate and make a decision to approve or deny the application and to prescribe suitable terms and conditions.

(2) Federal, State, and local government agencies and the public will be given adequate notice and an

opportunity to comment upon special use proposals in accordance with Forest Service practices established under the National Environmental Policy Act, OMB Circular A-95, and/or other pertinent direction.

(g) *Special application procedures.* (1) Oil and gas pipeline rights-of-way. These will include the citizenship of the applicant(s) and disclose the identity of its participants as follows:

(i) Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of the United States, shall not own an appreciable interest in any oil and gas pipeline right-of-way or associated permit; and

(ii) The authorized officer shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources promptly upon receipt of an application for a right-of-way for a pipeline twenty-four (24) inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty (60) days (not counting days on which the House of Representatives or the Senate has adjourned for more than three (3) days) after a notice of intention to grant the right-of-way, together with the authorized officer's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

(2) *Electric power transmission lines 66 KV or over.* Each application for authority to construct and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this section shall be referred to the Secretary of Energy to determine the relationship of the proposed facility to the power-marketing program of the United States. Where the proposed facility will not conflict with the program of the United States, the authorized officer, upon notification to that effect, will proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the facility in order to eliminate conflicts with the power-marketing program of the United States, the authorized officer shall obtain from the applicant written consent to or compliance with such requirements. If increased costs to the applicant will result from changes to eliminate conflicts with the power-marketing program of the United States, and it is determined that a right-of-way authorization should be issued, such changes will be required upon equitable contract arrangements with the

Department of Energy covering costs and other appropriate factors.

(h) *Denial.* An application may be denied if the authorized officer determines that:

(1) The proposed use would be inconsistent or incompatible with the purpose(s) for which the lands are managed, or with other uses; or

(2) The proposed use would not be in the public interest; or

(3) The applicant is not qualified; or

(4) The use would otherwise be inconsistent with applicable Federal and State laws; or

(5) The applicant does not or cannot demonstrate technical or financial capacity.

§ 251.55 Nature of interest.

(a) A holder is authorized only to occupy such land and structures and conduct such activities as is specified in the special use authorization. The holder may sublet the use and occupancy of the premises and improvements authorized only with the prior written approval of the authorized officer, but the holder shall continue to be responsible for compliance with all conditions of the special use authorization.

(b) All rights not expressly granted are retained by the United States, including but not limited to (1) continuing rights of access to all National Forest System land (including the subsurface and air space); (2) a continuing right of physical entry to any part of the authorized facilities for inspection, monitoring, or for any other purposes or reason consistent with any right or obligation of the United States under any law or regulation; and (3) the right to require common use of the land or to authorize the use by others in any way not inconsistent with a holder's existing rights and privileges after consultation with all parties and agencies involved. When costs can be feasibly allocated and have not been amortized, a new holder may be required to compensate existing holders for an equitable proportion of the original costs or other expense associated with the common use.

(c) Special use authorizations are subject to all outstanding valid rights.

(d) Each special use authorization will specify the lands to be used or occupied which shall be limited to that which the authorized officer determines: (1) will be occupied by the facilities authorized; (2) to be necessary for the construction, operation, maintenance, and full utilization of the authorized facilities or the conduct of authorized activities; and, (3) to be necessary to protect the public health and safety and the environment.

(e) The holder will secure permission under applicable law, and pay in advance, the value as determined by the authorized officer for any mineral and vegetative materials (including timber) to be cut, removed, used, or destroyed by the holder from the authorized use area or other National Forest System land. The authorized officer may, in lieu of requiring an advance payment, require the holder to stockpile or stack the material at designated locations for later disposal by the United States.

§ 251.56 Terms and conditions.

(a) *General.* Each special use authorization shall contain: (1) terms and conditions which will (i) carry out the purposes of applicable statutes and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or state law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance if those standards are more stringent than applicable Federal standards; and (2) such terms and conditions as the authorized officer deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands subject to the use or adjacent thereto; (iii) protect other lawful users of the lands adjacent to or occupied by such use; (iv) protect lives and property; (v) protect the interests of individuals living in the general area of the use who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (vi) require siting to cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vii) otherwise protect the public interest.

(b) *Duration and renewability.* If appropriate, each special use authorization will specify its duration and renewability. The duration shall be limited to a term which the authorized officer determines to be no longer than is necessary to accomplish the purpose of the authorization and is reasonable in light of all circumstances concerning the use, including (1) land management and other plans; (2) public benefits provided; (3) cost and life of the authorized facilities; (4) project financial arrangements; and (5) the life of associated facilities, licenses, etc. Authorizations exceeding 30 years will provide for revision of terms and

conditions at specified intervals to reflect changing times and conditions.

(c) *Preconstruction approvals.* Forest Service approval of location, design and plans (or standards, if appropriate) of all developments within the authorized area will be required prior to construction.

(d) *Liability.* Holders shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with existing Federal and State laws.

(1) Holders shall also indemnify the United States for any and all injury, loss, or damage, including fire suppression costs, the United States may suffer as a result of claims, demands, losses, or judgments caused by the holder's use or occupancy.

(2) Holders of rights-of-way for high risk use and occupancy, such as, but not limited, to powerlines, and oil and gas pipelines, shall be held liable for all injury, loss, or damage, including fire suppression costs, caused by the holder's use or occupancy without regard to the holder's negligence, provided that the maximum liability shall be specified in the special use authorization, but shall not exceed \$1,000,000 for any one occurrence. Liability for injury, loss or damage, including fire suppression costs, in excess of the specified maximum shall be determined by the laws governing ordinary negligence of the jurisdiction in which the damage or injury occurred.

(e) *Bonding.* The authorized officer may require the holder of a special use authorization to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or by any applicable law, regulation, or order.

(f) *Special terms and conditions.* (1) *Public service enterprises.* Special use permits authorizing the operation of public service enterprises shall require that the permittee charge reasonable rates and furnish such services as may be necessary in the public interest, except where such rates and services are regulated by Federal, State or municipal agencies having jurisdiction.

(2) *Common carriers.* Oil and gas pipelines and related facilities authorized under section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended (30 U.S.C. 185), shall be constructed, operated and maintained as common carriers. The owners or operators of pipelines shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or nonfederal lands. In the case of oil or gas produced from Federal lands or from

the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported, or purchased. The common carrier provisions of this section shall not apply to any natural gas pipeline operated (i) by any person subject to regulation under the Natural Gas Act, 52 Stat. 821, as amended, (15 U.S.C. 717) or (ii) by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(3) *Electric power transmission facilities 66 kilovolts or more.* (i) Unless waived on the advice of the power-marketing administration, an applicant for a right-of-way for an electric power transmission facility having a voltage of 66 kilovolts or more must execute and file with its application a stipulation agreeing to accept the right-of-way grant subject to the conditions listed below.

(ii) The Department of Energy—(hereinafter referred to as the "DOE") shall be allowed to utilize for the transmission of electric power and energy any surplus capacity of the transmission facility in excess of the capacity needed by the holder for the transmission of electric power and energy in connection with the holder's operations, or to increase the capacity of the transmission facility at the DOE's expense and to utilize the increased capacity for the transmission of electric power and energy. Utilization by the DOE of surplus or increased capacity shall be subject to the following terms and conditions:

(A) When the DOE desires to utilize surplus capacity thought to exist in the transmission facility, notification will be given to the holder and the holder shall furnish the authorized officer and the DOE within 30 days a certificate stating whether the transmission facility has any surplus capacity not needed by the holder for the transmission of electric power and energy in connection with the holder's operations and, if so, the amount of such surplus capacity.

(B) Where the certificate indicates that there is no surplus capacity or that the surplus capacity is less than that required by the DOE, the authorized

officer may call upon the holder to furnish additional information upon which its certification is based. Upon receipt of such additional information, the authorized officer and the DOE shall determine, as a matter of fact, if surplus capacity is available and, if so, the amount of such surplus capacity.

(C) In order to utilize any surplus capacity determined to be available, or any increased capacity provided by the DOE at its own expense, the DOE may interconnect its transmission facilities with the holder's transmission facility in a manner conforming to approved standards of practice for the interconnection of transmission circuits.

(D) The expense of the interconnection will be borne by the DOE, and the DOE will at all times provide and maintain adequate protective equipment to insure the normal and efficient operation of the holder's transmission facilities.

(E) After any interconnection is completed, the holder shall operate and maintain its transmission facilities in good condition, and, except in emergencies, shall maintain in a closed position all connections under the holder's control necessary to the transmission of the DOE's power and energy over the holder's transmission facilities. The parties may, by mutual consent, open any switch where necessary or desirable for maintenance, repair or construction.

(F) The transmission of electric power and energy by the DOE over the holder's transmission facilities will be effected in such manner as will not interfere unreasonably with the holder's use of the transmission facilities in accordance with the holder's normal operating standards, except that the DOE shall have the exclusive right to utilize any increased capacity of the transmission facility which has been provided at the DOE's expense.

(G) The holder will not be obligated to allow the transmission of electric power and energy by the DOE to any person receiving service from the holder on the date of the filing of the application for a grant, other than statutory preference customers including agencies of the Federal Government.

(H) The DOE will pay to the holder an equitable share of the total monthly cost of that part of the holder's transmission facilities utilized by the DOE. The payment will be an amount in dollars representing the same proportion of the total monthly cost of such part of the transmission facilities as the maximum amount in kilowatts of the power transmitted on a scheduled basis by the DOE over the holder's transmission facilities bears to the total capacity in

kilowatts of that portion of the transmission facilities. The total monthly cost will be determined in accordance with the system of accounts prescribed by the Federal Energy Regulatory Commission, exclusive of any investment by the DOE in the part of the transmission facilities utilized by the Department.

(I) If a certification under (A) or a determination under (B) has been made, and the holder later has a need for part or all of the surplus capacity, the holder may apply to the authorized officer for its modification or revocation. The application shall be made not less than 36 months in advance of the holder's need for the surplus capacity. Any modification or revocation of the certification or determination shall not affect the right of the DOE to utilize facilities provided at its expense or available under a contract made as provided for in this paragraph.

(J) If the DOE and the holder disagree as to the existence or amount of surplus capacity in carrying out the terms and conditions of this paragraph, the disagreement shall be decided by a board of three persons composed as follows: The holder and the authorized officer shall each appoint a member of the board and the two members shall appoint a third member. If the members appointed by the holder and the authorized officer are unable to agree on the designation of the third member, he shall be designated by the Chief Judge of the United States Court of Appeals of the circuit in which the major share of the facilities involved is located. The board shall determine the issue. Its determination, by majority vote, shall be binding on the DOE and the holder.

(K) As used in this section, the term "transmission facility" includes (1) all types of facilities for the transmission of electric power and energy and facilities for the interconnection of such facilities and, (2) the entire transmission line and associated facilities, from substation or interconnection point to substation or interconnection point, of which the segment crossing the lands of the United States forms a part.

(L) The foregoing terms and conditions prescribed in (A) through (K) may be modified at any time by mutual agreement between the holder, the Secretary of Energy or his designee, and the authorized officer.

§ 251.57 Rental fees.

(a) Special use authorizations, except as otherwise provided in this part or when specifically authorized by the Secretary of Agriculture, shall require the payment in advance of an annual rental fee as determined by the

authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles. When the annual fee is less than \$100, an advance lump-sum payment for up to five years may be required.

(b) All or part of the fee may be waived by the authorized officer, when equitable and in the public interest, for the use and occupancy of National Forest System land in the following circumstances:

(1) The holder is a State or local government or any agency or instrumentality thereof, excluding municipal utilities and cooperatives whose principal source of revenue from the authorized use is customer charges; or

(2) The holder is a nonprofit association or nonprofit corporation, which is not controlled or owned by profit-making corporations or business enterprises, and which is engaged in public or semi-public activity to further public health, safety, or welfare, except that free use will not be authorized when funds derived by the holder through the authorization are used to increase the value of the authorized improvements owned by the holder, or are used to support other activities of the holder; or

(3) The holder provides without charge, or at reduced charge, a valuable benefit to the public or to the programs of the Secretary; or

(4) When the rental fee is included in the fees for an authorized use or occupancy for which the United States is already receiving compensation; or

(5) When a right-of-way is authorized in reciprocation for a right-of-way conveyed to the United States; or

(6) For rights-of-way involving cost-share roads or reciprocal right-of-way agreements.

(c) No rental fee will be charged when the holder is the Federal government.

(d) Special use authorizations issued under § 251.53(g) of this part may require as all or a part of the consideration the reconditioning and maintenance of the government-owned or controlled structures, improvements, and land to a satisfactory standard. The total consideration will be based upon the fair market value of the rights and privileges authorized.

(e) Special use authorizations involving government-owned or controlled buildings, structures, or other improvements which require caretakers' services, or the furnishing of special services such as water, electric lights, and clean-up, may require the payment

of an additional fee or charge to cover the cost of such services.

(f) Except where specified otherwise by terms of a special use authorization, rental fees may be initiated or adjusted whenever necessary: (1) as a result of fee review, reappraisal; or (2) upon a change in the holder's qualifications under paragraph (b) of this section; and (3) notice is given prior to initiating or adjusting rental fees.

§ 251.58 Cost reimbursement. [Reserved]

§ 251.59 Transfer of special use privileges.

Except for easements issued under authorities other than § 251.53 (e) and (f) of this part, a special use authorization may be transferred upon application and the approval of the authorized officer. The transferee must qualify and agree to comply with and be bound by the terms and conditions of the authorization and such new conditions and stipulations as existing or prospective circumstances may warrant. If the holder, through death, voluntary sale, transfer, or through enforcement of a valid legal proceeding or operation of law, shall cease to be the owner of the authorized physical improvements, the authorization shall be subject to termination.

§ 251.60 Termination, revocation, and suspension.

(a) The authorized officer may suspend, revoke, or terminate any special use authorization except an easement issued pursuant to § 251.53 (e) and (f): (1) for noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, a fixed or agreed upon condition, event, or time occurs.

(b) A permit may be suspended, revoked, or terminated, in the discretion of the authorized officer, for reasons in the public interest.

(c) A right-of-way authorization granted to another Federal agency will be limited, suspended, revoked, or terminated only with that agency's concurrence.

(d) A right-of-way authorization serving another Federal agency will be limited, suspended, revoked, or terminated only after advance notice to, and consultation with, that agency.

(e) Prior to suspension, revocation, or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to cure any noncompliance.

(f) Immediate temporary suspension of a special use authorization, in whole

or in part, may be required when the authorized officer determines it to be necessary to protect the public health or safety or the environment. In any such case, the superior of the authorized officer will, within 10 days of request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior will take action to affirm, modify or cancel the temporary suspension as soon as possible.

(g) Except for suspension or termination of easements issued pursuant to § 251.53 (e) and (l) of this part all appeals from any decision of an authorized officer under this section shall be taken under § 211.19 of this Chapter.

(h) The authorized officer may take actions to suspend, revoke, or terminate easements issued pursuant to § 251.53 (e) and (l) of this part under the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary under 7 CFR 1.130-1.151. No administrative proceeding shall be required if the easement, by its terms, provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

(i) The Chief may terminate any easement granted under the provisions of the Act of October 13, 1964, 78 Stat. 1089 (16 U.S.C. 534): (i) by consent of the owner of the easement, (ii) by condemnation, or (iii) upon abandonment after nonuse by the owner of the easement for a period of 5 years. Before any easement is terminated for nonuse or abandonment, the owner of the easement must be given notice and, upon his request made within 60 days after receipt of the notice, a hearing in accordance with the provisions of § 211.19 of this Chapter.

(j) Upon termination of a special use authorization, the holder shall remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but that will not relieve the holder's liability for the removal and site restoration costs.

§ 251.61 Modifications.

(a) A holder shall file a new or amended application for a special use authorization to cover new, changed, or additional use(s) or area.

(1) In approving or denying changes or modifications, the authorized officer

shall consider among other things, the findings or recommendations of other involved agencies and whether the terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

(2) Changes during construction, or at any other time, from the approved plans or the location shown in the application or authorization shall be allowed only with the prior approval of the authorized officer.

(b) A holder may be required to furnish as-built plans, map(s), or survey(s) upon completion of construction.

(c) A holder shall obtain approval of the authorized officer prior to maintenance or other activities that will impact the environment, other users, or the public.

§ 251.62 Acceptance.

An easement, lease, or term permit shall become effective when it is signed by both the applicant and the authorized officer. An easement, lease, or term permit must be signed by the applicant and returned to the authorized officer within 60 days of its receipt by the applicant, unless extended by the authorized officer.

§ 251.63 Reciprocity.

If it is determined that a right-of-way shall be needed by the United States across nonfederal lands directly or indirectly owned or controlled by an applicant for a right-of-way across Federal lands, the authorized officer may condition a special use authorization to require the holder to grant the United States the needed right-of-way.

§ 251.64 Renewals.

(a) When a special use authorization provides for renewal, the authorized officer shall renew it where such renewal is authorized by law, if the project or facility is still being used for the purpose(s) previously authorized and is being operated and maintained in accordance with all the provisions of the authorization. In making such renewal, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and State land use plans, laws, regulations or other management decisions.

(b) When a special use authorization does not provide for renewal, it is discretionary with the authorized officer, upon request from the holder and prior to its expiration, whether or not the authorization shall be renewed. A renewal pursuant to this section shall

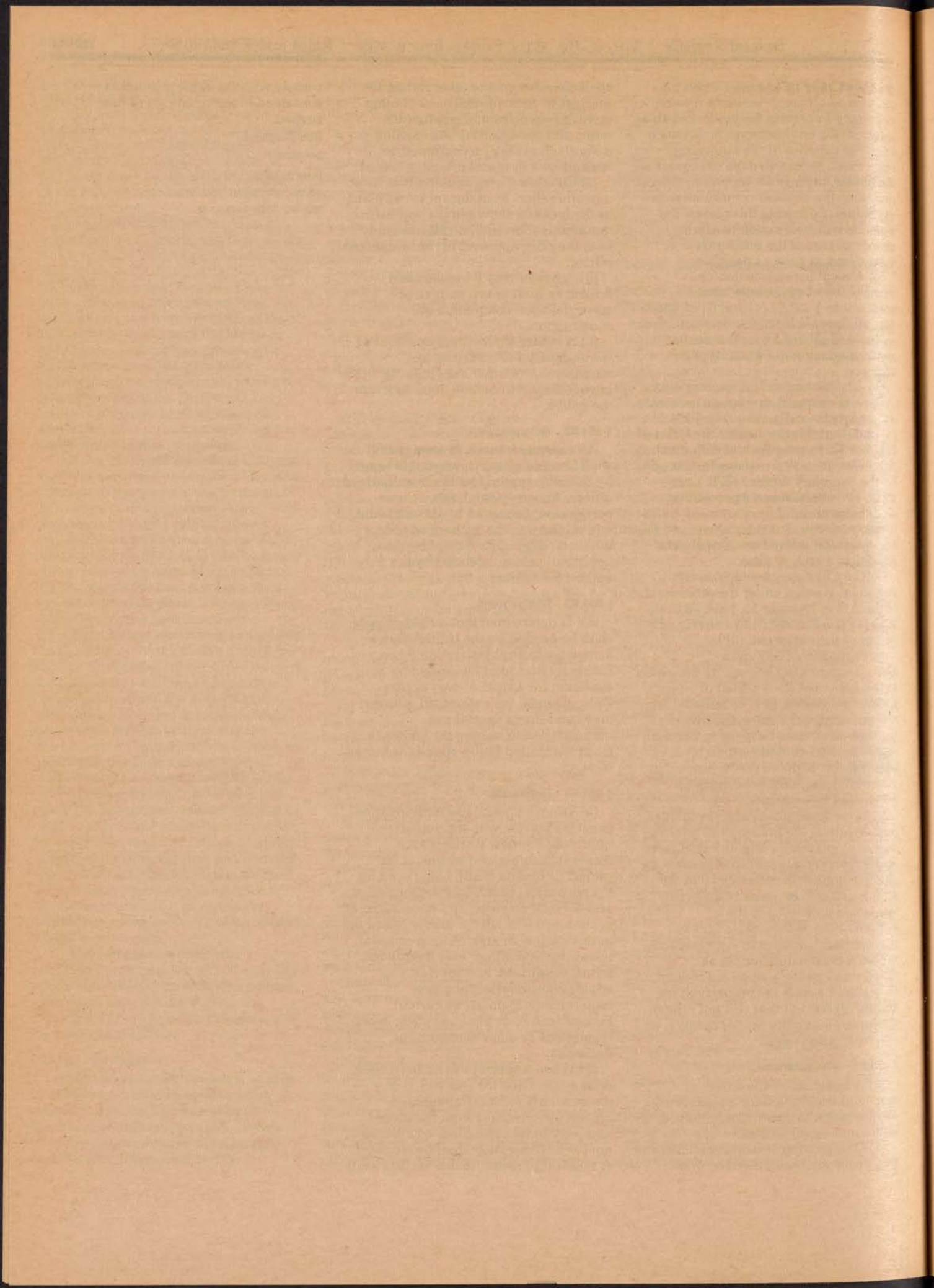
comply with the same provisions contained in paragraph (a) of this section.

Bob Bergland,
Secretary.

June 3, 1980.

[FR Doc. 80-17204 Filed 6-5-80; 8:45 am]

BILLING CODE 3410-11-M



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Federal Register

Vol. 45, No. 111

Friday, June 6, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of

the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

List of Public Laws Last Listing June 4, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 3807 / Pub. L. 96-258 To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change. (Jun. 3, 1980; 94 Stat. 425) Price \$1.

S. 662 / Pub. L. 96-259 To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. (Jun. 3, 1980; 94 Stat. 429) Price \$1.

H.R. 4088 / Pub. L. 96-260 To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes. (Jun. 3, 1980; 94 Stat. 435) Price \$1.

H.J. Res. 554 / Pub. L. 96-261 Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980. (Jun. 4, 1980; 94 Stat. 436) Price \$1.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from the list has no legal significance.

Rules Going Into Effect Today

FEDERAL COMMUNICATION COMMISSION

- 29840** 5-6-80 / FM Broadcast Station in Commerce, Tex.; Changes made in table of assignments
- 29838** 5-6-80 / FM Broadcast Station in Boyce, La.; Changes made in table of assignments
- 29838** 5-6-80 / FM Broadcast Station in Grand Rapids and Hibbing, Minn.; Changes made in table of assignment

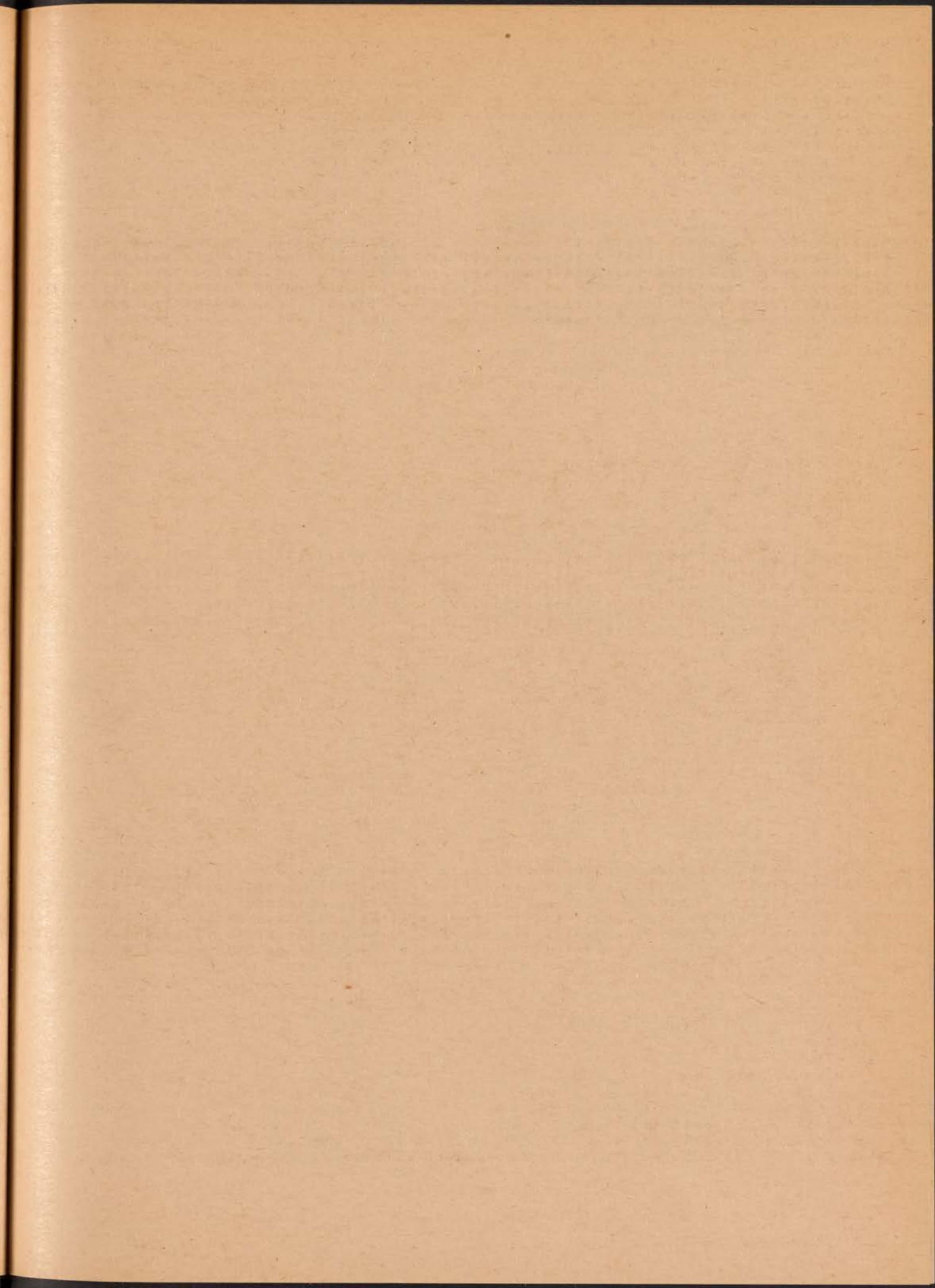
- 29837** 5-6-80 / FM Broadcast Station in Paxton, Ill.; Changes made in table of assignments

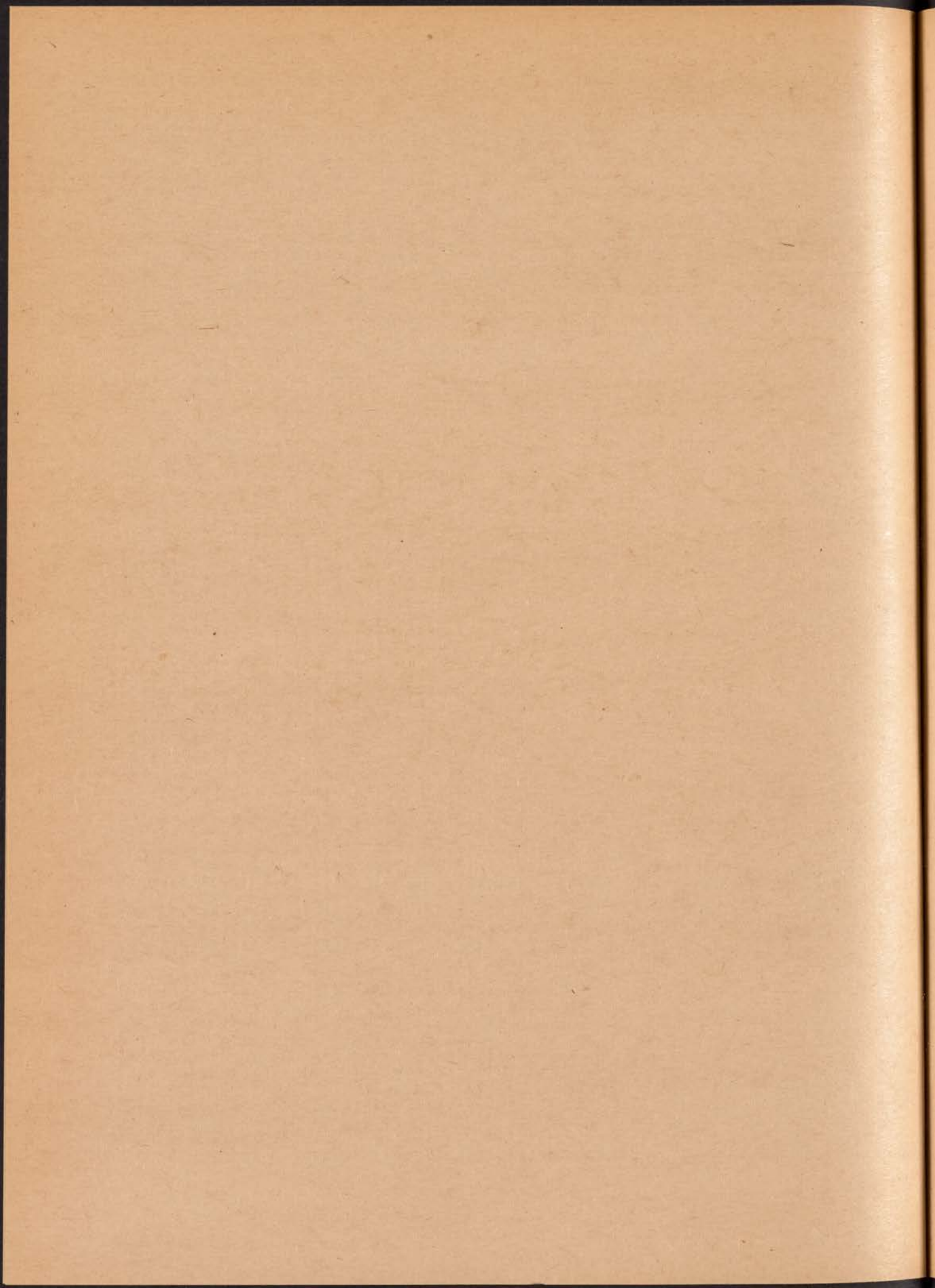
Rules Going Into Effect Saturday June 7, 1980

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Fair Housing and Equal Opportunity—Office of the Assistant Secretary—

- 31880** 5-14-80 / Fair Housing Assistance Program; Eligibility criteria and funding standards





CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1980)

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[A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).]

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