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Friday
February 6, 1981

Highlights

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Highlights

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

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MEETINGS ANNOUNCED IN THIS ISSUE

CANCELLED MEETINGS

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 81-2 of January 16, 1981

Determination To Authorize the Furnishing of Immediate Military Assistance to El Salvador

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 506(a) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby determine that:

1) an unforeseen emergency exists which requires immediate military assistance to El Salvador; and

2) the aforementioned emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except Section 506(a) of the Act.

Therefore, I hereby authorize the furnishing of up to $5,000,000 in defense articles and services by the Department of Defense to El Salvador under the provisions of chapter 2 of part II of the Act.

You are requested, on my behalf, to report this determination to the Congress as required by law, and none of the defense services provided for herein shall be furnished to El Salvador until after such report has been made.

This determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, January 16, 1981.

[FR Doc. 81-4538
Filed 2-4-81; 2:46 pm]
Billing code 3195-01-M

Presidential Documents

Memorandum of January 29, 1981

Postponement of Pending Regulations

Memorandum for the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Secretary of Energy, the Secretary of Education, the Administrator of the Environmental Protection Agency

Among my priorities as President is the establishment of a new regulatory oversight process that will lead to less burdensome and more rational federal regulation. I am now directing certain measures that will give this Administration, through the Task Force on Regulatory Relief, sufficient time to implement that process, and to subject to full and appropriate review many of the prior Administration's last-minute decisions that would increase rather than relieve the current burden of restrictive regulation. This review is especially necessary in the economic climate we have inherited.

1. *Postponement of Pending Final Regulations.* To the extent permitted by law, your agency shall, by notice in the **Federal Register**, postpone for 60 days from the date of this memorandum the effective date of all regulations that your agency has promulgated in final form and that are scheduled to become effective during such 60-day period.

2. *Postponement of Proposed Regulations.* To the extent permitted by law, your agency shall refrain, for 60 days following the date of this memorandum, from promulgating any final rule.

3. *Emergency Regulations and Regulations Subject to Short-Term Deadlines.* Your agency shall not postpone regulations that respond to emergency situations or for which a postponement pursuant to this memorandum would conflict with a statutory or judicial deadline.

4. *Consultation with the Office of Management and Budget.*

(a) Your agency shall report to the Director of the Office of Management and Budget all regulations that cannot legally be postponed under paragraphs 1 and 2 of this memorandum, and all regulations that will not be postponed under paragraph 3 of this memorandum, including a brief explanation of the legal or other reasons why the effective date of any such regulation will not be postponed.

(b) After consultation with the Director, or the Director's designee, your agency may decide to postpone the effective date or promulgation of a regulation for fewer than 60 days from the date of this memorandum, if circumstances warrant a shorter period of postponement.

5. *Exemptions.* This memorandum shall not apply to:

(a) regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 556, 557;

(b) regulations issued with respect to a military or foreign affairs function of the United States;

(c) regulations related to Federal government procurement;

(d) matters related to agency organization, management, or personnel; or

(e) regulations issued by the Internal Revenue Service.

6. *Definition.* For purposes of this memorandum, "regulation" or "rule" shall mean an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency.

Ronald Reagan

THE WHITE HOUSE,
Washington, January 29, 1981.

[FR Doc. 81-4606
Filed 2-5-81; 12:14 pm]
Billing code 3195-01-M

Editorial Note: The Office of the Federal Register was requested to print the memorandum in the **Federal Register** by the Acting Counsel to the President.

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service: Federal Home Loan Bank Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the time limitation on appointments to 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 which are excepted under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE: January 27, 1981.

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(a) is revised 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 2 years. 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. 81–4405 Filed 2–5–81; 8:45 am]

BILLING CODE 6325–01–M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705, 706, and 707

Termination of Anti-Inflationary Pay and Price Standards

AGENCY: Council on Wage and Price Stability.

ACTION: Notice of termination of voluntary pay and price standards, procedural rules, and data requests.

SUMMARY: On January 29, 1981, President Reagan issued Executive Order 12288 rescinding Executive Orders 12092 (November 1, 1978) and 12161 (September 28, 1979), which had authorized the implementation of the voluntary pay and price standards. Earlier, the Council announced, in a December 16, 1980 press release, that it would not promulgate final third-year standards and that it would not continue the formal monitoring of compliance with the then-current interim provisions. The purpose of this Notice, therefore, is simply to make explicit that the pay and price standards program, and all implementing regulations, procedural rules, data requests, and interpretative questions and answers are terminated. In accordance with Executive Order 12288, 6 CFR Parts 705 (Pay and Price Standards), 706 (Procedural Rules), and 707 (Data Requests) are no longer in effect.

EFFECTIVE DATE: January 29, 1981.

FOR FURTHER INFORMATION CONTACT: Daniel Duff, Acting General Counsel, (202) 456–6210.

(Council on Wage and Price Stability Act, Pub. L. 93–387, as amended (12 U.S.C. 1904, note); E.O. 12288 (January 29, 1981))

Issued in Washington, D.C., February 2, 1981.

Thomas D. Hopkins,

Acting Director, Council on Wage and Price Stability.

[FR Doc. 81–4334 Filed 2–5–81; 8:45 am]

BILLING CODE 3175–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 724

1981 National Marketing Quotas; Determinations and Announcements

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This document proclaims national marketing quotas for cigar-binder (types 51 & 52) and cigar-filler and binder (types 42–44, 53–55) tobaccos and announces national acreage allotments for the following kinds of tobacco: Fire-cured (type 21), 9576.19 acres; Fire-cured (types 22–24), 26,345.93 (type 21), 9576.19 acres; fire-cured acres; dark air-cured (types 35 & 36), 13,371.43 acres; Virginia sun-cured, 1,335.76 acres; cigar binder (types 51 & 52), 3,674.91 acres; cigar-filler and binder (types 42–44; 53–55), 19,047.62 acres. This document also announces certain determinations concerning these kinds of tobacco effective for the 1981–82 marketing year. The proclamation of the national marketing quotas are required by statute to be made by February 1, 1981.

EFFECTIVE DATE: February 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, Room 3754 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-6733. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "not significant." In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988) initiation of review of these and related regulations contained in 7 CFR § 724.6-724.7 and § 724.12 through 724.17 for need, currency, clarity, and effectiveness is planned for the period November 1981–January 1982.

The title and number of the Federal Assistance Program that this Final Rule applies to is: Title—Commodity Loan

and Purchases; Number—10.051. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

Sections 724.6 and 724.7 of the regulations are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act," to proclaim national marketing quotas for cigar-binder (types 51 & 52) and cigar filler and binder (types 42–44, 53–55) tobaccos for each of the three marketing years beginning October 1, 1981, October 1, 1982, and October 1, 1983. Sections 724.12 through 724.17 of the regulations are issued pursuant to and in accordance with the Act to announce the reserve supply level and the total supply of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco for the marketing year beginning October 1, 1980, and to announce for the 1981–82 marketing year the amounts of the national marketing quotas, national acreage allotments, and national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder, cigar-filler and binder tobaccos.

The determinations contained in § 724.12 through § 724.17 of the regulations have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from tobacco producers and others as provided in a Notice of Proposed Rulemaking (45 FR 75219) promulgated in accordance with the provisions of 5 U.S.C. §553 and Executive Order 12044

Discussion of Comments

Thirteen written responses were received. Some responses contained recommendations on more than one kind of tobacco. A summary by kind of tobacco is as follows:

Fire-cured (type 21)—Five comments were received recommending that quotas remain unchanged.

Fire-cured (types 22–23)—Three comments were received. Two recommended quotas remain unchanged, while the other recommended a 10 percent reduction in quotas.

Dark air-cured (types 35–36)—One comment was received recommending quotas remain unchanged.

Virginia sun-cured (type 37)—Three comments were received recommending quotas remain unchanged.

Cigar binder (types 51–52)—No comments received.

Cigar-filler and binder (types 42–44; 53–55)—Two comments were received recommending quotas remain unchanged.

Section 312(b) of the Act provides, in part, that the Secretary shall determine and announce, not later than February 1 with respect to these kinds of tobacco, the amount of the national marketing quota which will be in effect for the next marketing year in terms of the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. Since producers of these kinds of tobacco generally produce less than their respective national acreage allotments, it is determined that a larger quota would be necessary to make available production equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Definitions

The reserve supply level is defined in Section 301(b)(14)(B) of the Act as the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The normal supply is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal carry-over.

A normal year's domestic consumption is defined in Section 301(b)(11)(B) of the Act as the yearly average quantity of tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in Section 301(b)(12) of the Act as the yearly average quantity of tobacco produced in the United States that was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

Fire-Cured (Type 21) Tobacco

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1980–81 marketing year was about 2.0 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported in the United States during the 10 marketing years preceding the 1980–81 marketing year was 3.9 million pounds (farm sales weight basis. Because there does not seem to be any overall pattern to either domestic use or exports, the 10-year averages were used to calculate the reserve supply level. Application of the formula prescribed by Section 301(b)(14)(B) of the Act results in a reserve supply level of 12.5 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1980, as 9.263 million pounds. The 1980 fire-cured (type 21) tobacco crop is estimated to be 4.0 million pounds. Therefore, the total supply of fire-cured (type 21) tobacco for the 1980–81 marketing year is 13.263 million pounds. During the 1980–81 marketing year, it is estimated that disappearance will total about 6.0 million pounds. By deducting this disappearance from the total supply, a carryover of 7.263 million pounds for the 1981–82 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1981, of 5.237 million pounds represents the quantity of fire-cured type 21 tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 52 percent of the announced national marketing quotas during the past 5 marketing years has been produced. It is hereby determined that a national marketing quota of 10.055 million pounds is necessary to make available production of 5.237 million pounds.

In accordance with Section 313(g) of the Act, the 1981 national marketing quota, divided by the 1976–80 5-year national average yield of 1,050 pounds per acre, results in a national acreage allotment of 9,576.19 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage

factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 50.0 acres, by the total of the 1981 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Fire-Cured (Types 22–24) Tobacco

The yearly average quantity of fire-cured (types 22–24) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1980–81 marketing year was about 14.7 million pounds. The average annual quantity of fire-cured (types 22–24) tobacco produced in the United States and exported during the 10 marketing years preceding the 1980–81 marketing year was 21.0 million pounds (farm-sales weight basis). Domestic use has recently trended upward, while exports are very irregular.

Accordingly, a normal year's domestic consumption has been established at 19.0 million pounds and a normal year's exports at 21.9 million pounds. Application of the formula prescribed by Section 301(b)(14)(B) of the Act results in a reserve supply level of 92.8 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22–24) tobacco held on October 1, 1980, as 68.0 million pounds. The 1980 fire-cured (types 22–24) crop is estimated to be 32.0 million pounds. Therefore, the total supply of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1980 is 100.0 million pounds. During the 1980–81 marketing year, it is estimated that disappearance will total abvout 36.0 million pounds. By deducting this disappearance from the total supply, a carryover of 64.0 million pounds for the 1981–82 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1981, of 28.8 million pounds represents the quantity of fire-cured (types 22–24) tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 75 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 38.3 million pounds is necessary to make available production of 28.8 million pounds. An increase in the national marketing quota by 20 percent to 46.0 million pounds in accordance with Section 312(b) of the Act is deemed to be justified in order to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level. Accordingly, a national marketing quota of 46.0 million pounds is hereby proclaimed.

In accordance with Section 313(g) of the Act, the 1980 national marketing quota, divided by the 1976–80 5-year national average yield of 1,746 pounds per acre, results in the 1981 national acreage allotment of 26,345.93 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of .95 is determined by dividing the national acreage allotment, less a national reserve of 25.0 acres, by the total of the 1981 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Dark Air-Cured Tobacco

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1980–81 marketing year was about 15.4 million pounds, and the average annual quantity produced domestically and exported during this period was 2.4 million pounds (farm-sales weight basis). Domestic use has trended downward slightly while exports have been erratic. With this in mind, 15.0 million pounds have been used as a normal year's domestic consumption and 2.4 million pounds as a normal year's exports. Application of the formula prescribed by Section 301(b)(14)(B) of the Act results in a reserve supply level of 47.6 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1980, as 34.2 million pounds. The 1980 dark air-cured crop is estimated to be 14.9 million pounds. Therefore, the total supply for the marketing year beginning October 1, 1980, is 49.1 million pounds. During the 1980–81 marketing year, it is estimated that disappearance will total about 19.5 million pounds. By deducting this disappearance from the total supply, a carryover of 29.6 million pounds for the 1981–82 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1981, of 18.0 million pounds represents the quantity of dark air-cured tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because only about 77 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 23.4 million pounds is necessary to make available production of 18.0 million pounds. In accordance with Section 313(g) of the Act, the 1981 national marketing quota, divided by the 1976–80 5-year national average yield of 1,750 pounds per acre, results in a 1981 national acreage allotment of 13,371.43 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 80.0 acres, by the total of the 1981 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Virginia Sun-Cured Tobacco

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1980–81 marketing year was about 780 thousand pounds, and the average annual quantity produced in the United States and exported during the same period was about 200 thousand pounds (farm-sales weight basis). Domestic use has trended downward while exports have held steady. Accordingly, 628 thousand pounds have been used as a normal year's domestic consumption and 200 thousand pounds have been used as a normal year's exports. Application of the formula prescribed by Section 301(b)(14)(B) of the Act results in a reserve supply level of 2,160 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1980, as 2,024 thousand pounds. The 1980 Virginia sun-cured tobacco crop is estimated to be 419 thousand pounds. Therefore, the total supply of Virginia sun-cured tobacco for the 1980–81 marketing year is 2,443 thousand pounds. During the 1980–81 marketing year, it is estimated that disappearance will total about 900 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,543 thousand pounds for the 1981–82 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1981, of 617 thousand pounds represents the quantity of Virginia sun-cured tobacco which may be marketed which will make available

during such marketing year a supply equal to the reserve supply level. Because only about 42 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 1,468 thousand pounds is necessary to make available production of 617 thousand pounds.

In accordance with Section 313(g) of the Act, the 1981 national marketing quota, divided by the 1976–80 5-year national average yield of 1,099 pounds per acre, results in a 1981 national acreage allotment of 1,335.76 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 10.0 acres, by the total of the 1981 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Cigar-Binder (Types 51 and 52) Tobacco

The yearly average quantity of cigar-binder (types 51 & 52) tobacco produced in the United States, which is estimated to have been consumed in the United States during the 10 years preceding the 1980–81 marketing year, was about 2.6 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1980–81 marketing year was 0.1 million pounds (farm-sales weight basis). Domestic use and exports are erratic. Accordingly, 2.6 million pounds have been used as a normal year's domestic consumption and 0.1 million pounds have been used as a normal year's exports. Application of the formula prescribed by Section 301(b)(14)(B) of the Act results in a reserve supply level of 7.7 million pounds. Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1980, as 5.7 million pounds. The 1980 cigar-binder crop is estimated to be 2.6 million pounds. Therefore, the total supply of cigar-binder tobacco for the 1980–81 marketing year is 8.3 million pounds. During the 1980–81 marketing year, it is estimated that disappearance will total about 2.3 million pounds. By deducting the estimated disappearance during the 1980–81 marketing year from the total supply, a carryover of 6.0 million pounds at the beginning of the 1981–82 marketing year is obtained. The difference between the reserve supply level and the estimated carryover on October 1, 1981, of 1.7 million pounds represents the quantity of cigar binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 33.3 percent of the announced national marketing quotas over the past 5 years has been produced, it is hereby determined that a national marketing quota of 5.2 million pounds is necessary to make available production of 1.7 million pounds. An increase in the national marketing quota by 20 percent to 6.24 million pounds in accordance with Section 312(b) of the Act is deemed to be justified in order to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level. Accordingly, a national marketing quota of 6.24 million pounds is hereby proclaimed. In accordance with Section 313(g) of the Act, the 1981 national marketing quota of 6.24 million pounds, divided by the 1976–80 5-year national average yield of 1,698 pounds per acre, results in a 1981 national acreage allotment of 3,674.91 acres.

Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 15.0 acres, by the total of the 1981 preliminary farm acreage allotments. The preliminary farm acreage allotments reflects the factors specified in Section 313(g) of the Act for apportioning the national allotment, less the national reserve, to old farms.

Cigar-Filler and Binder Tobacco

The yearly average quantity of cigar-filler and binder tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1980–81 marketing year was about 23.2 million pounds. The average annual quantity of cigar-filler and binder tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1980–81 marketing year was only negligible. Domestic use is increasing. Accordingly, a normal year's domestic consumption has been established at 26.1 million pounds while a normal years's exports has been established at zero. Application of the formula prescribed by Section 301(b)(14)(B) of the Act results in a reserve supply level of 75.4 million pounds.

Manufacturers and dealers report stocks of cigar-filler and binder tobacco held on October 1, 1980, as 52.7 million pounds. The 1980 cigar-filler and binder crop is estimated to be 26.7 million pounds. Therefore, the total supply of cigar-filler and binder tobacco for the 1980–81 marketing year is 79.4 million pounds. During the 1980–81 marketing year, it is estimated that disappearance will total about 25.0 million pounds. By deducting this disappearance from the total supply, a carryover of 54.4 million pounds at the beginning of the 1981–82 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1981, of 21.0 million pounds represents the quantity of cigar-filler and binder tobacco which may be marketed which will make available during such marketing year a supply equal to the reserve supply level. Because less than 71 percent of the announced national marketing quotas over the past 5 years have been produced, it is hereby determined that a national marketing quota of 29.7 million pounds is necessary to make available production of 21.0 million pounds. An increase in the national marketing quota by 20 percent to 35.6 million pounds in accordance with Section 312(b) of the Act is deemed to be justified in order to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level. Accordingly, a national marketing quota of 35.6 million pounds is hereby proclaimed.

In accordance with Section 313(g) of the Act, the 1981 national marketing quota of 35.6 million pounds, divided by the 1976–80 5-year national average yield of 1,869 pounds per acre, results in the 1981 national acreage allotment of 19,047.62 acres. Pursuant to the provisions of Section 313(g) of the Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment, less a national reserve of 36 acres, by the total of the 1981 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) of the Act for apportioning the national acreage allotment, less the national reserve, to old farms.

Reasons for Immediate Implementation

The Act requires the holding of separate referendums of farmers engaged in the production of cigar-binder and cigar-filler and binder tobacco within 30 days after issuance of the proclamation of national marketing quotas to determine whether such farmers favor marketing quotas. Farmers must be notified, insofar as practicable, of their farm acreage allotments prior to the referenda and notices of allotments cannot be mailed until the issuance of the proclamation of the national marketing quotas. In addition, fire-cured, dark air-cured, and sun-cured

tobacco farmers are now making their plans for producing tobacco in 1981 and need to know, at the earliest possible date, the applicable 1981 tobacco allotments for their farms. Accordingly, it is hereby found that compliance with the 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this final rule shall become effective February 1, 1981.

Final Rule

Part 724 of Title 7 is amended by revising §§ 724.6 and 724.7 and §§ 724.12 through 724.17 and the centerheads which precede them to read as follows effective for the 1981–82 marketing year. The material previously appearing in these sections under centerheads Proclamation of Quotas, and Determinations and Announcements—1980–81 Marketing Year remains in full force and effect as to the crop to which it is applicable.

Proclamation of Quotas

§ 724.6 Cigar binder tobacco (types 51 & 52) 1981–82, 1982–83, and 1983–84 marketing years.

Since the 1980–81 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for cigar binder (types 51 & 52) tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1981, October 1, 1982, and October 1, 1983, is hereby proclaimed.

§ 724.7 Cigar-filler and binder tobacco (types 42–44 & 53–55) 1981–82, 1982–83, and 1983–84 marketing years.

Since the 1980–81 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for cigar-filler and binder (types 42–44 & 53–55) tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning October 1, 1981, October 1, 1982, and October 1, 1983, is hereby proclaimed.

Determinations and Announcements—1981–82 Marketing Year

§ 724.12 Fire-cured (type 21) tobacco.[1]

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (type 21) tobacco is 12.5 million pounds calculated, as provided in the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as "the Act") from a normal year's domestic consumption of 2.0 million pounds and a normal year's exports of 3.9 million pounds.

[1]Rounded to the nearest tenth of a million.

(b) *Total supply.*[1] The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1980, is 13.263 million pounds calculated, in accordance with the Act, from a carryover of 9.263 million pounds and estimated 1980 production of 4.0 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1981, is 7.263 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1980, of 6.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1981, a supply equal to the reserve supply level of such tobacco is 5.237 million pounds. Because producers have been producing only about 52 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota of 10.055 million pounds is necessary to make available production of 5.237 million pounds. Accordingly, a national marketing quota of 10.055 million pounds is hereby announced.

(e) *National acreage allotment.*[1] The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1981–82 marketing year by the 5-year (1976–80) national average yield of 1,050 pounds, is 9,576.19 acres.

(f) *National acreage factor.*[1] The national acreage factor for use in determining farm acreage allotments is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1981 old farms.

(g) *National reserve.*[1] The national acreage reserve is 50.0 acres, of which 10.0 acres are made available for 1981 new farms, and 40.0 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.13 Fire-cured (types 22–24) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (types 22–24) tobacco is 92.8 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 19.0 million pounds and a normal year's exports of 21.9 million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1980, is 100.0 million pounds calculated, in accordance with the Act, from a carryover of 68.0 million pounds and estimated 1980 production of 32.0 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1981, is 64.0 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1980, of 36.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of fire-cured (types 22–24) tobacco which will make available during the marketing year beginning October 1, 1981, a supply equal to the reserve supply level of such tobacco is 28.8 million pounds. Because producers have been producing only about 75 percent of the announced national marketing quota during the 5 marketing years, it is hereby determined that a national marketing quota of 38.3 million pounds is necessary to make available production of 28.8 million pounds. Accordingly, a national marketing quota of 38.3 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 38.3 million pounds would result in undue restriction of marketings during the 1981–82 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (types 22–24) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1981, is 46.0 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1981–82 marketing year by the 5-year (1976–80) national average yield of 1,746 pounds, is 26,345.93 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1981–82 marketing year is 0.95. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1981 old farms.

(g) *National reserve.* The national acreage reserve is 25 acres, of which 5 acres are made available for 1981 new farms, and 20 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.14 Dark air-cured tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for dark air-cured tobacco is 47.6 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 15.0 million pounds and a normal year's exports of 2.4 million pounds.

(b) *Total supply.*[1] The total supply of dark air-cured tobacco for the marketing year beginning October 1, 1980, is 49.1 million pounds calculated, in accordance with the Act, from a carryover of 34.2 million pounds and estimated 1980 production of 14.9 million pounds.

(c) *Carryover.*[1] The estimated carryover of dark air-cured tobacco for the marketing year beginning October 1, 1981, is 29.6 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1980, of 19.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of dark air-cured tobacco which will make available during the marketing year beginning October 1, 1981, a supply equal to the reserve supply level of such tobacco is 18.0 million pounds. Because producers have been producing only about 77 percent of the announced national marketing quota during the past 5 marketing years, it is hereby determined that a national marketing quota of 23.4 million pounds is necessary to make available production of 18.0 million pounds. Accordingly, a national marketing quota of 23.4 million pounds is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1981–82 marketing year by the 5-year (1976–80) national average yield of 1,750 pounds, is 13,371.43 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1981–82 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1981 old farms.

(g) *National reserve.* The national acreage reserve is 80 acres, of which 10 acres are made available for 1981 new farms, and 70 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.15 Virginia sun-cured tobacco.

(a) *Reserve supply level.*[2] The reserve supply level for Virginia sun-cured tobacco is 2,160 thousand pounds calculated, as provided in the Act, from a normal year's domestic consumption of 628 thousand pounds and a normal year's exports of 200 thousand pounds.

(b) *Total supply.*[2] The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1980, calculated in accordance with the Act, is 2,443 thousand pounds, consisting of carryover of 2,024 thousand pounds and estimated 1980 production of 419 thousand pounds.

(c) *Carryover.*[2] The estimated carryover of Virginia sun-cured tobacco for the marketing year beginning October 1, 1981, is 1,543 thousand pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1980, of 900 thousand pounds from the total supply of such tobacco.

(d) *National marketing quota.*[2] The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1981, a supply equal to the reserve supply level of such tobacco is 617 thousand pounds. Because producers have been producing only about 42 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 1,468 thousand pounds is necessary to make available production of 617 thousand pounds. Accordingly, a national marketing quota of 1,468 thousand pounds is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1981–82 marketing year by the 5-year (1976–80) national average yield of 1,099 pounds, is 1,335.76 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1981–82 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1981.

(g) *National reserve.* The national acreage reserve is 10 acres, of which 3.0 acres are made available for 1981 new farms, and 7.0 acres are made available for making correction and adjusting inequities in old farm allotments.

[1] Rounded to the nearest thousand pounds.

§ 724.16 Cigar-binder (types 51 & 52) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for cigar-binder (types 51 & 52) tobacco is 7.7 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 2.6 million pounds and a normal year's exports of .1 million pounds.

(b) *Total supply.*[1] The total supply of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1980, is 8.3 million pounds, calculated in accordance with the Act from a carryover of 5.7 million pounds and estimated 1980 production 2.6 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1981, is 6.0 million pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1980, of 2.3 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-binder (types 51 & 52) tobacco which will make available during the marketing year beginning October 1, 1981, a supply equal to the reserve supply level of such tobacco is 1.7 million pounds. Because producers have been producing less than 33.3 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 5.2 million pounds is necessary to make available production of 1.7 million pounds. Accordingly, a national marketing quota of 5.2 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 5.2 million pounds would result in undue restriction of marketings during the 1981–82 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-binder (types 51 & 52) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1981, is 6.24 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1981–82 marketing year by the 5-year (1976–80) national average yield of 1,698 pounds, is 3,674.91 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1981–82 marketing year is 1.0. It was calculated in accordance with the Act

by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for the 1981 old farms.

(g) *National reserve.* The national acreage reserve is 15 acres of which 8.0 acres are made available for new farms, and 7.0 are for making corrections in adjusting inequities in old farm allotments.

§ 724.17 Cigar-filler and binder (types 42–44, 53–55) tobacco.

(a) *Reserve supply level.*[1] The reserve supply for cigar-filler and binder (types 42–44, 53–55) tobacco is 75.4 million pounds calculated, as provided in the Act, from a normal year's domestic consumption of 26.1 million pounds and a normal year's exports of zero pounds.

(b) *Total supply.*[1] The total supply of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1980, is 79.4 million pounds, calculated in accordance with the Act from a carryover of 52.7 million pounds and estimated 1980 production of 26.7 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1981, is 54.4 million pounds calculated, in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1980, of 25.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-filler and binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1981, a supply equal to the reserve supply level of such tobacco is 21.0 million pounds. Because producers have been producing less than 71 percent of the announced national acreage allotment over the past 5 years, it is hereby determined that a national marketing quota of 29.7 million pounds is necessary to make available production of 21.0 million pounds. Accordingly, a national marketing quota of 29.7 million pounds is hereby announced. It is determined, however, that a national marketing quota in the amount of 29.7 million pounds would result in undue restrictions of marketings during the 1981–82 marketing year in adjusting the total supply to the reserve supply level. Accordingly, such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42–44, 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1981, is 35.6 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1981–82 marketing year by the 5-year (1976–80) national average yield of 1,869 pounds, is 19,047.62 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1981–82 marketing year is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1981 old farms.

(g) *National reserve.* The national acreage reserve is 36 acres, of which 32 acres are made available for 1981 new farms, and 4 acres are made available for making corrections and adjusting inequities in old farm allotments.

(Secs. 301, 312, 375, 52 Stat. 38, as amended, 46, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375)

Signed at Washington, D.C. on January 30, 1981.

John R. Block,

Secretary.

[FR Doc. 81-4255 Filed 2-2-81; 4:21 pm]

BILLING CODE 3410-05-M

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7 CFR Part 726

Burley Tobacco; Announcement of Quotas for the 1981 Marketing Year for Burley Tobacco

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture announces that the 1981 national marketing quota for burley tobacco is 661 million pounds, 46 million pounds above last year's quota. The law requires that this announcement be made by February 1, 1981. The quota was adjusted upward in order to maintain adequate supplies of burley tobacco.

EFFECTIVE DATE: February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, ASCS, Price Support and Loan Division, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013 (202) 447–6733. The final impact statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "significant." In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988) initiation of review of these and related regulations contained in 7 CFR 726.11 for need, currency, clarity, and effectiveness is planned for the period November, 1981–January, 1982.

The title and number of the Federal Assistance Program that this Final Rule applies to is: Title—Commodity Loan and Purchases; Number—10.051. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

The regulations at 7 CFR 726.11 are issued to set forth determinations made pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act"), for burley tobacco for the 1981 marketing year with respect to:

1. The amount of the national marketing quota.
2. The national factor.
3. The national acreage reserve.

Producers approved in a referendum (45 FR 40096) marketing quotas on a poundage basis for the 1980, 1981, and 1982 marketing years.

The determinations by the Secretary issued in this final rule have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from burley tobacco producers and others pursuant to a notice (45 FR 77035, 79078) given in accordance with the provisions of 5 U.S.C 553 and Executive Order 12044.

Discussion of Comments

A total of 31 comments were received in response to the notice of proposed rulemaking. Included were comments from producers, members of the trade, including trade associations and farm groups, and one member of Congress. Four commentators recommended an increase in quota of over 10 percent; 2 recommended a 10 percent increase; 4 recommended a 7½ percent increase; 1 recommended some increase; 4 recommended a 2½ percent increase; 2 recommended that the quota be set on a different basis; 1 recommended that the quota remain the same; 1 recommended some reduction in quota, and 1 recommended a 10 percent reduction in quota, and 1 made no specific recommendation. Five commentators were against marketing quotas for health reasons, 1 recommended that the program be deregulated. Two recommended that the carryover

undermarketings provisions be changed. Four commentators recommended that the Secretary authorize the marketing of up to 5 percent of the farm marketing quota without payment of penalty for any grades needed to insure traditional marketing patterns and one recommended that this not be authorized.

Two meetings were held in the producing area to give farmers and others an opportunity to express their views verbally. Of those present, 7 recommended an increase in quota of 7½ to 10 percent; 5 recommended a 5 percent increase and 6 recommended no increasae in quota from the quota in effect for the 1980 crop.

In keeping with the Secretary's obligations to maintain an adequate supply of burley tobacco, a marketing quota of 661 million pounds for burley tobacco is hereby determined and announced for the 1981–82 marketing year.

Section 319(c) of the Act provides that the national marketing quota determined under such section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 percent of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 percent of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms.

In accordance with section 319(e) of the Act the 1981 farm marketing quota for burley tobacco is required to be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under section 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for 1981: *Provided*, that such national factor shall not be less than 95 percent.

The reserve supply level is defined in Section 301(b) of the Act as 105 percent of the normal supply. The normal supply is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption, in accordance with Section 301(b)(11)(B) of the Act, is the yearly average quantity of burley tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in Section 301 (b)(12) of the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The reserve supply level is 1,678 million pounds, based on a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds. The average domestic usage for the past 10 marketing years amounts to 511 million pounds. However, domestic usage has trended downward. The 10 year average exports amounted to 92 million pounds. Exports have averaged 130 million pounds during the past three marketing years and are expected to continue their upward trends in the future as foreign manufacturers upgrade their blends. In view of these data and estimates, a reserve supply level of 1,678 million pounds appears reasonable.

The total supply for the 1980–81 marketing year, October 1 carryover stocks plus estimated production of the 1980 crop, is 1,581 million pounds. This is 97 million pounds below the reserve supply level.

Total disappearance for the 1981–82 marketing year is estimated at 632 million pounds. Considering that burley tobacco is in short supply, it has been determined that an upward adjustment of the quota is necessary to maintain supplies. Accordingly, the national marketing quota for burley tobacco for the marketing year beginning October 1, 1981, is determined to be 661 million pounds. The sum of the preliminary farm marketing quotas for the 1981–82 marketing year is 614,414,402 pounds. The quota of 661 million pounds, less a national reserve of 500,000 pounds, would result in a national factor of 1.075.

Since farmers are now making their plans for 1981 production of burley tobacco and need to know immediately the marketing quota for their farms for the 1981–82 marketing year and since Section 319(b) of the Act requires that this announcement be made by February 1, 1981, it is hereby found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 and Executive Order 12044 is impossible and contrary to the public interest. Therefore, this final rule shall be effective immediately.

Final Rule

Accordingly, 7 CFR Part 726 is amended by revising section 726.11 and the centerhead which precedes it to read as set forth below. The material previously appearing in this section under centerhead Determinations and Announcements 1980–81 Marketing Year remains in full force and effect as to the crop to which it was applicable.

Determinations and Announcements 1981–82 Marketing Year

§ 726.11 Burley tobacco.

Determinations for burley tobacco for the marketing year beginning October 1, 1981 are as follows:

(a) *National marketing quota.* The national marketing quota on a poundage basis in 661 million pounds. This quota is based upon expected utilization and exports for the 1981–82 marketing year with an upward adjustment of 29 million pounds, due to short supplies.

(b) *National factor.* The national factor determined under § 319(e) of the Act is 1.075.

(c) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm marketing quotas and for establishing marketing quotas for new farms is 500,000 pounds.

(Secs. 301, 319, 375, 52 Stat. 38, as amended, 85 Stat. 23, 52 Stat. 66, as amended, 7 U.S.C. 1301, 1314e, 1375)

Signed at Washington, D.C. on January 30, 1981.

John R. Block,

Secretary of Agriculture.

[FR Doc. 81-4254 Filed 2-2-81; 4:21 pm]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 291]

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 February 8–14, 1981. 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: February 8, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 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 1980–81 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 8, 1980. A final impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on February 3, 1981, 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 easier.

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.

Section 910.591 is added as follows:

§ 910.591 Lemon Regulation 291.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period February 8, 1981, through February 14, 1981, is established at 195,000 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: February 4, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-4000 Filed 2-5-81; 11:46 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Uranium Mill Licensing Requirements; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction.

SUMMARY: The NRC corrects an error in paragraph designation that occurred in its Uranium Mill Licensing Requirements, a final rule published on October 3, 1980 (45 FR 65521)

FOR FURTHER INFORMATION CONTACT: Don Harmon, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301) 443–5910.

SUPPLEMENTARY INFORMATION: The Uranium Mill Licensing Requirements rule is corrected as follows:

The eleventh amendatory instruction (45 FR 65531) is corrected to read:

11. Section 40.31 of 10 CFR 40 is amended by adding a new § 40.31(h) to read as follows:

§ 40.31 Applications for specific licenses

* * * * *

(h) Conforming corrective amendments are made in Appendix A to Part 40 (45 FR 65533) by changing references to § 40.31(g) to § 40.31(h) where they occur in the second and third paragraphs of Appendix A.

Dated at Bethesda, Maryland this 27th day of January, 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-4443 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-80-04A]

Reports on Major Electric Utility System Emergencies

Correction

In FR Doc. 81–908 appearing on page 2956 in the issue for Monday, January 12, 1981, make the following changes:

(1) On page 2956, second column, second paragraph under "*A. General Comments*", eleventh line, "tpe" should read "type".

(2) On page 2958, first column, nineteenth line from the top, "of" should read "or"; second column, first paragraph under "**III. The Final Regulations**", last line, "Congess" should read "Congress".

(3) On page 2959, first column, § 205.351, seond line, "m" should read "made"; third line, "Ever" should read "Every"; fifth line, "transmiss" should read "transmission"; in paragraph (a), first line, "pubic" should read "public"; third column, § 205.353, ninth line, the first "of" should read "or".

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 206

[Reg. F; Docket No. R-0327]

Securities of Member State Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board hereby adopts final amendments to its Regulation F (12 CFR Part 206), consistent with recent amendments to regulations of the Securities and Exchange Commission ("SEC"), concerning (a) Safe Harbor from Liability for Projections, (b) Corporate Governance (c) Dividend Reinvestment Plans and (d) Tender Offers. The Board also issued an interpretation relating to (a) Issuer

Tender Offers and (b) Going Private Transactions. Finally, the Board adopted certain technical amendments to Regulation F.

EFFECTIVE DATE: March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Richard M. Whiting, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3779).

SUPPLEMENTARY INFORMATION: On October 29, 1980, there was published in the **Federal Register** (45 FR 71575) a notice of proposed rulemaking to amend the Board's securities disclosure regulations in order to make them more similar to SEC regulations. Interested persons were given the opportunity to submit, not later than December 10, 1980, data, views or comments regarding the proposal. No comments were received from members of the public and, therefore, the revisions relating to (a) Safe Harbor from Liability for Projections, (b) Corporate Governance (c) Dividend Reinvestment Plans, and (d) Tender Offers were adopted as proposed by the Board.

Also, the Board proposed not to amend Regulation F to conform it to the SEC Issuer Tender Offer and Going Private regulations; rather, the Board chose to withhold its approval of transactions falling within the scope of such regulations if those transactions fail materially to meet the requirements of the SEC regulations. The Board stated this policy in connection with its earlier proposal (45 FR 71576-77) and has memorialized it by adding a new interpretation at 12 CFR 206.104.

Finally, the Board has adopted numerous other amendments to Regulation F. These amendments are technical in nature (e.g., corrections of typographic errors, revision of spacing and addition or deletion of conforming language) and no provision for public comment need be made for their final adoption. Accordingly, 12 CFR Part 206 is amended as set forth below.

(Sec. 12(i) of the Securities Exchange Act, 15 U.S.C. 78(i))

Final Amendments

(1) Section 206.3 of Regulation F is amended by revising the title of the section and by adding paragraph (d) to read as follows:

§ 206.3 Inspection and publication of information and safe harbor from liability for forward-looking statements filed under the Act.

* * * * *

(d) *Safe Harbor from Liability for Forward-Looking Statements.* (1) A statement within the coverage of paragraph (d)(2) of this section which is made by or on behalf of a bank filing any statement, report, or document under the Act or by an outside reviewer retained by the bank shall be deemed not to be a fraudulent statement (as defined in paragraph (d)(4) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(2) Paragraph (d)(1) of this section applies to (i) a forward-looking statement (as defined in paragraph (d)(3) of this section) made in a document filed with the Board or in an annual report to shareholders meeting the requirements of § 206.5(c) of Regulation F (12 CFR 206.5(c)); (ii) a statement reaffirming the forward-looking statement referred to in paragraph (d)(2)(i) of this section subsequent to the date the document was filed or the annual report was made publicly available; or (iii) a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such forward-looking statement is affirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward-looking statement.

(3) For the purpose of this subsection, the term "forward-looking statement" shall mean and shall be limited to:

(i) A statement containing a projection or revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(ii) A statement of management's plans and objectives for future operations;

(iii) A statement of future economic performance contained in management's discussion and analysis of the summary of earnings as called for by general instructions (g) and (h) to the Quarterly Report on Form F-4; and

(iv) Disclosed statements of the assumptions underlying or relating to any of the statements described in paragraph (d)(3) (i), (ii), or (iii) of this section.

(4) For the purpose of this regulation the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Act of 1934 or the regulations promulgated thereunder.

(5) Notwithstanding any of the provisions of paragraphs (d) (1) through (4) of this section, this rule shall apply only to forward-looking statements made by or on behalf of a bank, if, at the time such statements are made or reaffirmed, the bank is subject to the reporting requirements of the Securities Exchange Act of 1934 and had filed its most recent annual report with the Board on Form F-2.

(2) In § 206.5, paragraphs (b)(5) and (e)(6) are added, and paragraphs (a), the introductory text of (b), (c) (1), (2) and (3), (d) in its entirety, (g)(1) (i), (ii) and (iii), (g)(2) (ii) and (iii), (g)(3), (h)(1), (i)(3) (i), (ii) and (iii), (i)(6), and (k)(1) through (k)(4) are all revised to read as follows:

§ 206.5 Proxy statements and other solicitations under Section 14 of the Act.

(a) Requirement of statement. No solicitation of a proxy with respect to a security of a bank registered pursuant to section 12 of the Act shall be made unless each person solicited is concurrently furnished, or has previously been furnished, with a written proxy statement containing the information required by Form F-5. If any bank having such a security outstanding fails to solicit proxies from the holders of any such security in such a manner as to require the furnishing of such a proxy statement, such bank shall transmit to all holders of record of such security a statement containing the information required by Form F-5. The "information statement" required by the preceding sentence shall be transmitted (1) at least 20 calendar days prior to any annual or other meeting of the holders of such security at which such holders are entitled to vote, or (2) in the case of corporate action taken with the written authorization or consent of security holders, at least 20 days prior to the earliest date on which the corporate action may be taken. A proxy statement or an "information statement" required by this paragraph is hereinafter sometimes referred to as a "Statement".

(b) *Exceptions.* The requirements of this § 206.5 shall not apply to the following:

* * * * *

(5) The furnishing of proxy voting advice by any person (the "advisor") to any other person with whom the advisor had a business relationship, if:

(i) The advisor renders financial advice in the ordinary course of his business;

(ii) The advisor discloses to the recipient of the advice any significant relationship with the bank or any of its

affiliates, or a shareholder proponent of the matter on which advice is given, as well as any material interest of the advisor in such matter;

(iii) The advisor receives no special commission or remuneration for furnishing the proxy voting advice from any person other than a recipient of the advice and other persons who receive similar advice under this subsection; and

(iv) The proxy voting advice is not furnished on behalf of any person soliciting proxies or on behalf of a participant in an election subject to the provisions of § 206.5(i).

Note.—The solicitations excepted by paragraphs (b)(1) and (b)(5) remain subject to the prohibitions against false and misleading statements in § 206.5(h).

(c) *Annual report to security holders to accompany statements.* (1) Any Statement furnished on behalf of the bank that relates to an annual meeting of security holders at which directors are to be elected shall be accompanied or preceded by an annual report to such security holders containing such financial statements for the last 2 fiscal years as will, in the opinion of the bank, adequately reflect the financial position of the bank at the end of each such year and the results of its operations for each such year. The financial statements included in the annual report may omit details or summarize information if such statements, considered as a whole in the light of other information contained in the report and in the light of the financial statements of the bank filed or to be filed with the Board, will not by such procedure omit any material information necessary to a fair presentation or to make the financial statements not misleading under the circumstances. Subject to the foregoing requirements with respect to financial statements, the annual report to security holders may be in any form deemed suitable by the bank and the information required by paragraphs (c)(1) (i) to (iv) of this section may be presented in an appendix or other separate section of the report, provided that the attention of security holders is called to such presentation.

* * * * *

(2) Bank's Statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited, on the written request of any such person, a copy of the bank's annual report on Form F–2 including the financial statements and the schedules thereto, required to be filed with the Board pursuant to §206.4 of this Part for the bank's most recent fiscal year, and shall indicate the name and address of the person to whom such a written request is to be directed.

* * * * *

(5) Eight copies of each annual report sent to security holders pursuant to this paragraph (c) shall be sent to the Board not later than (i) the date on which such report is first sent or given to security holders, or (ii) the date on which preliminary copies of the bank Statement are filed with the Board pursuant to paragraph (f) of this section, whichever date is later. Such annual report is not deemed to be "soliciting material" or to be "filed" with the Board or otherwise subject to this § 206.5 or the liabilities of section 18 of the Act, except to the extent that the bank specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement by reference.

* * * * *

(d) *Requirements as to proxy.* (1) the form of proxy (i) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the bank's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type the identity of the persons on whose behalf the solicitation is made, (ii) shall provide a specifically designated blank space for dating the proxy, and (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon whether proposed by the bank or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred under paragraph (d)(3) of this section.

(2)(i) Means shall be provided in the form of proxy whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to, each matter or group of related matters referred to therein as intended to be acted upon, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by the security holder if the form of proxy states in Bold-faced type how the shares represented by the proxy are intended to be voted in each such case.

(ii) A form of proxy which provides for the election of directors shall set forth the names of persons nominated for election as directors. Such form of proxy shall clearly provide any of the following means for security holders to withhold authority to vote for each nominee:

(A) A box opposite the name of each nominee which may be marked to indicate that authority to vote for such nominee is withheld; or

(B) An instruction in bold-face type which indicates that the security holder may withhold authority to vote for any nominee by lining through or otherwise striking out the name of any nominee; or

(C) Designated blank spaces in which the shareholder may enter the names of nominees with respect to whom the shareholder chooses to withhold authority to vote; or

(D) Any other similar means: *Provided,* That clear instructions are furnished indicating how the shareholder may withhold authority to vote for any nominee.

(iii) Such form of proxy also may provide a means for the security holder to grant authority to vote for the nominees set forth, as a group: *Provided,* That there is a similar means for the security holder to withhold authority to vote for such group of nominees. Any such form of proxy which is executed by the security holder in such manner as not to withhold authority to vote for the election of any nominee shall be deemed to grant such authority: *Provided,* That the form of proxy so states in bold-face type.

Instructions. 1. Paragraph (ii) does not apply in the case of a merger, consolidation or other plan if the election of directors is an integral part of the plan.

2. If applicable State law gives legal effect to votes cast against a nominee, then in lieu of, or in addition to, providing a means for security holders or withhold authority to vote, the bank should provide a similar means for security holders to vote against each nominee.

(e) * * *

(6) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the bank for inclusion in the bank's proxy statement and form of proxy relating to that meeting, such date to be calculated in accordance with the provisions of § 206.5(k)(iii)(A). If the date of the next annual meeting is subsequently advanced by more than 30 calendar days or delayed by more than 90 calendar days from the date of the annual meeting to which the proxy statement relates, the bank shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

* * * * *

(g) *Mailing communications for security holders.* If the bank has made

or intends to make any proxy solicitation subject to this § 206.5, the bank shall perform such of the following acts as may be requested in writing with respect to the same subject matter or meeting by any security holder who is entitled to vote on such matter or to vote at such meeting and who shall first defray the reasonable expenses to be incurred by the bank in the performance of the act or acts requested:

(1) The bank shall mail or otherwise furnish to such security holder the following information as promptly as practicable after the receipt of such request:

(i) A statement of the approximate number of holders of record of any class of securities, any of the holders of which have been or are to be solicited on behalf of the bank, or any group of such holders that the security holder shall designate;

(ii) If the bank has made or intends to make, through bankers, brokers, or other persons, any solicitation of the beneficial owners of securities of any class, a statement of the approximate number of such beneficial owners, or any group of such owners that the security holder shall designate;

* * * * *

(ii) Any such material that is furnished by the security holder shall be mailed with reasonable promptness by the bank after receipt of a tender of the material to be mailed, of envelopes or other containers therefor, of postage or payment for postage, and of evidence that such material has been filed with the Board pursuant to paragraph (f) of this section. The bank need not, however, mail any such material that relates to any matter to be acted upon at an annual meeting of security holders prior to the earlier of (*a*) a day corresponding to the first date on which the bank's proxy soliciting material was released to security holders in connection with the last annual meeting of security holders, or (*b*) the first day on which solicitation is made on behalf of management. With respect to any such material that relates to any matter to be acted upon by security holders otherwise than at an annual meeting, such material need not be mailed prior to the first day on which solicitation is made on behalf of the bank;

(iii) The bank shall be responsible for such proxy statement, form of proxy, or other communication.

(3) In lieu of performing the acts specified above, the bank may, at its option, furnish promptly to such security holder a reasonably current list of the names and addresses of such of the holders of record specified in paragraph (g)(1)(i) of this section as the security holder shall designate, and a list of the names and addresses of the bankers, brokers, or other persons specified in paragraph (g)(1)(ii) of this section as the security holder shall designate together with a statement of the approximate number of beneficial owners solicited or to be solicited through each such banker, broker, or other person and a schedule of the handling and mailing costs of each such banker, broker, or other person, if such schedule has been supplied to the bank. The foregoing information shall be furnished promptly upon the request of the security holder or at daily or other reasonable intervals as it becomes available to the bank.

(h) *False or misleading statements.* (1) No solicitation or communication subject to this section shall be made by means of any Statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or that omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter that has become false or misleading. Depending upon particular circumstances, the following may be misleading within the meaning of this paragraph: Predictions as to specific future market values; material that directly or indirectly impugns character, integrity, or personal reputation, or directly or indirectly makes charges concerning improper, illegal, or immoral conduct or associations, without factual foundation; failure so to identify a Statement, form of proxy, and other soliciting material as clearly to distinguish it from the soliciting material of any other person or persons soliciting for the same meeting or subject matter; claims made prior to a meeting regarding the results of a solicitation.

* * * * *

(i) *Special provisions applicable to election contests.* (1) * * *

* * * * *

(3) *Filing of information required by Form F–6.* (i) No solicitation subject to this paragraph (i) shall be made by any person other than the bank unless at least five business days prior thereto, or such shorter period as the Board may authorize upon a showing of good cause therefor, there has been filed with the Board and with each exchange upon which any security of the bank is listed, by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified by Form F–6.

(ii) Within five business days after a solicitation subject to this paragraph (i) is made by the bank, or such longer period as the Board may authorize upon a showing of good cause therefor, there shall be filed with the Board and with each exchange upon which any security of the bank is listed, by or on behalf of each participant in such solicitation, other than the bank, a statement in duplicate containing the information specified by Form F–6.

(iii) If any solicitation on behalf of the bank or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this paragraph (i) in opposition thereto, a statement in duplicate containing the information specified in Form F–6 shall be filed by or on behalf of each participant in such prior solicitation, other than the bank, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto, with the Board and with each exchange on which any security of the bank is listed.

* * * * *

(6) *Application of this paragraph to annual report.* Notwithstanding the provisions of § 206.5(c), three copies of any portion of the annual report referred to in that paragraph that comments upon or refers to any solicitation subject to this paragraph (i), or to any participant in any such solicitation, other than the solicitation by the bank shall be filed with the Board as proxy material subject to this § 206.5. Such portion of the annual report shall be filed with the Board in preliminary form at least five business days prior to the date copies of the report are first sent or given to security holders.

* * * * *

(k) *Proposals of security holders.* (1) If any security holder of a bank notifies the bank of his intention to present a proposal for action at a forthcoming meeting of the bank's security holders, the bank shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide means by which security holders can make the specification required by § 206.5(d)(2). If the bank issues an information statement pursuant to paragraph (a) of this section, it shall identify the proposal and indicate the disposition proposed to be made of the proposal by the management at the meeting. The bank, however need not include a proposal in its information statement if such proposal is submitted less than 60 days

in advance of a day corresponding to the date of mailing a proxy statement or information statement in connection with the last annual meeting of security holders. Notwithstanding the foregoing, the bank shall not be required to include the proposal in its proxy statement or form of proxy unless the security holder (hereinafter, the "proponent") has complied with the requirements of this paragraph and paragraphs (k)(2) and (3) of this section:

(i) *Eligibility.* At the time he submits the proposal, the proponent shall be a record or beneficial owner of a security entitled to be voted at the meeting on his proposal, and he shall continue to own such security through the date on which the meeting is held. If the bank requests documentary support for a proponent's claim that he is a beneficial owner of a voting security of the issuer, the proponent shall furnish appropriate documentation within 10 business days after receiving the request. In the event the bank includes the proponent's proposal in its proxy soliciting materials for the meeting and the proponent fails to comply with the requirement that he continuously be a voting security holder through the meeting date, the bank shall not be required to include any proposal submitted by the proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(ii) *Notice.* The proponent shall notify the bank in writing of his intention to appear personally at the meeting to present his proposal for action. The proponent shall furnish the requisite notice at the time he submits the proposal, except that if he was unaware of the notice requirement at that time he shall comply with it within 10 business days after being informed of it by the bank. If the proponent, after furnishing in good faith the notice required by this provision, subsequently determines that he will be unable to appear personally at the meeting, he shall arrange to have another security holder of the issuer present his proposal on his behalf at the meeting. In the event the proponent or his proxy fails, without good cause, to present the proposal for action at the meeting, the bank shall not be required to include any proposals submitted by the proponent in its proxy soliciting materials for any meeting held in the following two calendar years.

(iii) *Timeliness.* The proponent shall submit his proposal sufficiently far in advance of the meeting so that it is received by the bank within the following time periods:

(A) *Annual meetings.* A proposal to be presented at an annual meeting shall be received by the management at the issuer's principal executive offices not less than 90 days in advance of a date corresponding to the date set forth on the bank's proxy statement released to security holders in connection with the previous year's annual meeting of security holders, except that no annual meeting was held in the previous year or the date of the annual meeting has been changed by more than 30 calendar days from the date of the previous year's annual meeting a proposal shall be received by the bank in reasonable time before the solicitation is made.

(B) *Other meetings.* A proposal to be present at any meeting other than an annual meeting shall be received at a reasonable time before the solicitation is made.

Note.—In order to curtail controversy as to the date on which a proposal was received by the bank, it is suggested that proponents submit their proposals by Certified Mail-Return Receipt Requested.

(iv) *Number and length of proposals.* The proponent may submit a maximum of two proposals of not more than 300 words each for inclusions in the management's proxy materials for a meeting of security holders. If the proponent fails to comply with either of these requirements, or if he fails to comply with the 200-word limit on supporting statements mentioned in paragraph (k)(2) of this section, he shall be provided the opportunity by the bank to reduce, within 10 business days, the items submitted by him to the limits required by this rule.

(2) If the bank opposes any proposal received from a proponent, it shall also, at the request of the proponent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal, which statement shall not include the name and address of the proponent. The statement and request of the proponent shall be furnished to the bank at the time that the proposal is furnished, and the bank shall not be responsible for such statement. The proxy statement shall also include either the name and address of the proponent or a statement that such information will be furnished by the issuer or by the Board to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. If the name and address of the proponent are omitted from the proxy statement, they shall be furnished to the Board at the time of filing the bank's preliminary proxy material pursuant to § 206.5(f)(1).

(3) The bank may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(i) If the proposal is, under the laws of the issuer's domicile, not a proper subject for action by security holders;

Note.—A proposal that may be improper under the applicable State law when framed as a mandate or directive may be proper when framed as a recommendation or request.

(ii) If the proposal would, if implemented, require the issuer to violate any State law or Federal law of the United States, or any law of any foreign jurisdiction, to which the issuer is subject, except that this provision shall not apply with respect to any foreign law compliance with which would be violative of any State law or Federal law of the United States;

(iii) If the proposal or the supporting statement is contrary to any of the Board's proxy rules and regulations, including § 206.5(h) which prohibits false or misleading statements in proxy soliciting materials;

(iv) If the proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the bank, or any other person;

(v) If the proposal deals with a matter that is not significantly related to the bank's business;

(vi) If the proposal deals with a matter that is beyond the bank's power to effectuate;

(vii) If the proposal deals with a matter relating to the conduct of the ordinary business operations of the bank;

(viii) If the proposal relates to an election to office;

(ix) If the proposal is counter to a proposal to be submitted by the bank at the meeting;

(x) If the proposal has been rendered moot;

(xi) If the proposal is substantially duplicative of a proposal previously submitted to the management by another proponent, which proposal will be included in the bank's proxy materials for the meeting;

(xii) If substantially the same proposal has previously been submitted to security holders in the bank's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five calendar years, it may be omitted from the bank's proxy materials relating to any meeting of security holders held within three calendar years after the latest such previous submission: *Provided,* That—(A) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 per cent of the total number of votes cast in regard thereto; or

(B) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 per cent of the total number of votes cast in regard thereto; or

(C) If the proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 per cent of the total number of votes cast in regard thereto; and

(xiii) If the proposal relates to specific amounts of cash or stock dividends.

(4) Whenever the bank asserts, for any reason, that a proposal and any statement in support thereof received from a proponent may properly be omitted from its proxy statement and form of proxy, it shall file with the Board, not later than 50 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 206.5(f)(1), or such shorter period prior to such date as the Board or its staff may permit, five copies of the following items: (i) The proposal; (ii) any statement in support thereof as received from the proponent; (iii) a statement of the reasons why the bank deems such omission to be proper in the particular case; and (iv) where such reasons are based on matters of law, a supporting opinion of counsel. The bank shall at the same time, if it has not already done so, notify the proponent of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the bank deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

* * * * *

(3) In § 206.5 paragraphs (l) and (m) are deleted and those paragraph designations are reserved.

(4) In § 206.6, a new paragraph (j) is added as follows and present paragraphs (j) through (u) are redesignated as paragraphs (k) through (v).

§ 206.6 "Insiders" securities transaction and reports under section 16 of the Act.

* * * * *

(j) *Exemption for acquisitions under dividend reinvestment plans.* Any acquisition of securities resulting from reinvestment of dividends or interest shall be exempt from section 16 if it is made pursuant to a plan providing for the regular reinvestment in such securities of dividends payable thereon or of dividends or interest payable on other securities of the same bank: *Provided,* That the plan is made available on the same terms to all holders of securities of the class on which the reinvested dividends or interest are being paid.

* * * * *

(5) A new section, § 206.8, is added to Part 206 to read as follows:

§ 206.8 Tender offers.

(a) *Scope of and definitions applicable to this section.*—(1) *Scope.* (i) No person, directly or indirectly by use of the mails or any means or instrumentality of interstate commerce or any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of any class of equity security which is registered pursuant to Section 12 of the Act, of a State member bank if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per cent of such class, unless on the date of the commencement of the tender offer such person has complied with the requirements of paragraph (c)(1) of this section. The definition of beneficial owner set forth in § 206.4(h)(5)(i) for the purposes of Section 13(d)(1) of the Act shall apply also for purposes of Section 14(d)(1) of the Act.

(2) *Definitions.* Unless the context otherwise requires, all terms used in this section have the same meaning as in the Act and in § 206.2 promulgated thereunder. In addition, for purposes of sections 14(d) and 14(e) of the Act and this section the following definitions apply:

(i) The term "bidder" means any person who makes a tender offer or on whose behalf a tender offer is made;

(ii) The term "subject bank" means any State member bank which is the issuer of securities which are sought by a bidder pursuant to a tender offer;

(iii) The term "security holders" means holders of record and beneficial owners of securities which are the subject of a tender offer;

(iv) The term "beneficial owner" shall have the same meaning as that set forth in § 206.4(h)(5)(i): *Provided, however,* That, except with respect to paragraphs (c) and (i)(4) of this section and Item 6 of Form F–13, the term shall not include a person who does not have or share investment power or who may be deemed to be a beneficial owner by virtue of his right to acquire beneficial ownership as set forth in § 206.4(h)(5)(i).

(v) The term "tender offer material" means:

(A) The bidder's formal offer, including all the material terms and conditions of the tender offer and all amendments thereto;

(B) The related transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository) and all amendments thereto; and

(C) Press releases, advertisements, letters and other documents published by the bidder or sent or given by the bidder to security holders which, directly or indirectly, solicit, invite or request tenders of the securities being sought in the tender offer;

(vi) The term "business day" means any day, other than Saturday, Sunday or a Federal holiday, and shall consist of the time period from 12:01 a.m. through 12:00 midnight Eastern time. In computing any time period under section 14(d)(5) or section 14(d)(6) of the Act or under 12 CFR Part 206 the date of the event which begins the running of such time period shall be included *except that* if such event occurs in other than a business day such period shall begin to run on an shall include the first business day thereafter; and

(vii) The term "security position listing" means, with respect to securites of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the bank's securities and of the participants' respective positions in such securities as of a specified date.

(b) *Date of commencement of a tender offer.—(1) Commencement.* A tender offer shall commence for the purposes of section 14(d) of the Act and the rules promulgated thereunder at 12:01 a.m. on the date when the first of the following events occurs:

(i) The long-form publication of the tender offer is first published by the bidder pursuant to paragraph (d)(1)(i) of this section.

(ii) The summary advertisement of the tender offer is first published by the bidder pursuant to paragraph (d)(1)(i) of this section.

(iii) The summary advertisement or the long-form publication of the tender offer is first published by the bidder puruant to paragraph (d)(1)(i) of this section.

(iv) Definitive copies of a tender offer, in which the consideration offered by the bidder consists of securities registered pursuant to the Securities Act of 1933, are first published or sent or given by the bidder to security holders; or

(v) The tender offer is first published or sent or given to security holders by the bidder by any means not otherwise referred to in subparagraphs (1)(i) through (1)(iv) of this paragraph.

(2) *Public announcement.* A public announcement by a bidder through a

press release, newspaper advertisement or public statement which includes the information at subparagraph (3) of this paragraph with respect to a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed to constitute the commencement of a tender offer under subparagraph (1)(v) of this paragraph *except that* such tender offer shall not be deemed to be first published or sent or given to security holders by the bidder under subparagraph (1)(v) or this paragraph on the date of such public announcement if within five business days of such public announcement, the bidder *either:*

(i) Makes a subsequent public announcement stating that the bidder has determined not to continue with such tender offer, in which event subparagraph (1)(v) of this paragraph shall not apply to the intial public announcement; or

(ii) Complies with paragraph (c)(1) of this section and contemporaneously disseminates the disclosure required by paragraph (f) of this section to security holders pursuant to paragraph (d) of this section or otherwise in which event:

(A) The date of commencement of such tender offer under subparagraph (1) of this paragraph will be determined by the date the information required by paragraph (f) of this section is first published or sent or given to security holders pursuant to paragraph (d) of this section or otherwise; and

(B) Notwithstanding subparagraph (2)(ii)(A) of this paragraph, section 14(d)(7) of the Act shall be deemed to apply to such tender offer from the date of such public announcement.

(3) *Information.* The information referred to in subparagraph (2) of this paragraph is as follows:

(i) The identity of the bidder;

(ii) The identity of the subject company; and

(iii) The amount and class of securities being sought and the price or range of prices being offered therefor.

(4) *Announcements not resulting in commencement.* A public announcement by a bidder through a press release, newpaper advertisement or public statement which only discloses the information in subparagraphs (4)(i) through (4)(iii) of this paragraph concerning a tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under subparagraph (1)(v) of this paragraph.

(i) The identity of the bidder;

(ii) The identity of the subject company; and

(iii) A statement that the bidder intends to make a tender offer in the future for a class of equity securities of the subject bank which statement does not specify the amount of securities of such class to be sought or the consideration to be offered therefor.

(5) *Pulic Announcement.* A public announcement concerning a tender offer by a bidder through a press release, newspaper advertisement or public statement which states that the offering will be made only by means of a prospectus and discloses the name of the bank and the title of the securities to be surrendered in exchange for the securities to be offered and the basis upon which the exchange may be made where the consideration consists solely or in part of securities to be registered under the Securities Act of 1933 shall not be deemed to constitute the commencement of a tender offer under subparagraph (1)(v) of this paragraph: *Provided,* That such bidder files a registration statement with respect to such securities promptly after such public announcement.

(c) *Filing and transmission of tender offer statement.*—(1) *Filing and transmittal.* No bidder shall make a tender offer if, after consummation thereof, such bidder would be the beneficial owner of more than 5 percent of the class of the subject bank securities for which the tender offer is made, unless as soon as practicable on the date of the commencement of the tender offer such bidder:

(i) Files with the Board six copies of a Tender Offer Statement on Form F–13 (12 CFR 206.82) including all exhibits thereto:

(ii) Hand delivers a copy of such Form F–13, including all exhibits thereto;

(A) To the subject bank at its principal executive office; and

(B) To any other bidder, which has filed a Form F–13 with the Board relating to a tender offer that has not yet terminated for the same class of securities of the subject bank, at such bidder's principal executive office or at the address of the person authorized to receive notices and communications (which is disclosed on the cover sheet of such other bidder's Form F–13);

(iii) Gives telephonic notice of the information required by paragraphs (f)(5)(ii) (A) and (B) of this section and mails by means of first class mail a copy of such Form F–13, including all exhibits thereto:

(A) To each national securities exchange where such class of the subject bank's securities is registered and listed for trading (which may be based upon information contained in the subject bank's most recent Annual Report on Form F–2 (12 CFR 206.42) filed with the Board unless the bidder has reason to believe that such information is not current) which telephonic notice shall be made when practicable prior to the opening of each such exchange; and

(B) To the National Association of Securities Dealers, Inc. ("NASD") if such class of the subject bank's securities are authorized for quotation in the NASDAQ interdealer quotation system.

(2) *Additional materials.* The bidder shall file with the Board six copies of any additional tender offer materials as an exhibit to the Form F–13 required by this section, and if a material change occurs in the information set forth in such Form F–13, six copies of an amendment to Form F–13 each of which shall include all exhibits other than those required by Item 11(a) of Form F–13 disclosing such change and shall send a copy of such additional tender offer material or such amendment to the subject bank and to any exchange and/or the NASD, as required by subparagraph (1) of this paragraph, promptly but not later than the date such additional tender offer material or such change is first published, sent or given to security holders.

(3) *Certain announcements.* Notwithstanding the provisions of subparagraph (2) of this paragraph, if the additional tender offer material or an amendment to Form F–13 discloses only the number of shares deposited to date, and/or announces an extension of the time during which shares may be tendered, then the bidder may file such tender offer material or amendment and send a copy of such tender offer material or amendment to the subject bank, any exchange and/or the NASD, as required by subparagraph (1) of this paragraph, promptly after the date such tender offer material is first published or sent or given to security holders.

(d) *Dissemination of certain tender offers*—(1) *Materials deemed published or sent or given.* A tender offer in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933 shall be deemed "published or sent or given to security holders" within the meaning of section 14(d)(1) of the Act if the bidder complies with all of the requirements of any one of the following subparagraphs: *Provided, however,* That any such tender offers may be published or sent or given to security holders by other methods, but with respect to summary publication, and the use of stockholder lists and security position listings

pursuant to paragraph (e), paragraphs (d)(1) (ii) and (iii) are exclusive.

(i) *Long-form publication.* The bidder makes adequate publication in a newspaper of long-form publication of the tender offer.

(ii) *Summary publication.* (A) The bidder makes adequate publication in a newspaper or newspapers of a summary advertisement of the tender offer; and

(B) Mails by first class mail or otherwise furnishes with reasonable promptness the bidder's tender offer materials to any security holder who requests such tender offer materials pursuant to the summary advertisement or otherwise.

(iii) *Use of stockholder lists and security position listings.* Any bidder using stockholder lists and security position listings pursuant to paragraph (e) of this section shall comply with subparagraphs (1)(i) or (1)(ii) of this paragraph on or prior to the date of the bidder's request for such lists or listing pursuant to paragraph (e)(1) of this section.

(2) *Adequate publication.* Depending on the facts and circumstances involved, adequate publication of a tender offer pursuant to this section may require publication in a newspaper with a national circulation or may only require publication in a newspaper with metropolitan or regional circulation or may require publication in a combination thereof: *Provided, however,* That publication in all editions of a daily newspaper with a national circulation shall be deemed to constitute adequate publication.

(3) *Publication of changes.* If a tender offer had been published or sent or given to security holders by one or more of the methods enumerated in subparagraph (1) of this paragraph a material change in the information published, sent or given to security holders shall be promptly disseminated to security holders in a manner reasonably designed to inform security holders of such change: *Provided, however,* That if the bidder has elected pursuant to paragraph (e)(6)(i) of this section to require the subject company to disseminate amendments disclosing material changes to the tender offer materials pursuant to paragraph (e) of this section the bidder shall disseminate material changes in the information published or sent or given to security holders at least pursuant to paragraph (e) of this section.

(e) *Dissemination of certain tender offers by the use of stockholder lists.*— (1) *Obligations of the subject bank.* Upon receipt by a subject bank at its principal executive offices of a bidder's written request, meeting the requirements of paragraph (e)(5) of this section, the subject shall comply with the following:

(i) The subject bank shall notify promptly transfer agents and any other person who will assist the subject in complying with the requirements of this paragraph of the receipt by the subject bank of a request by a bidder pursuant to this paragraph.

(ii) The subject bank shall promptly ascertain whether the most recently prepared stockholder list, written or otherwise, within the access of the subject bank was prepared as of a date earlier than ten business days before the date of the bidder's request and, if so, the subject bank shall promptly prepare or cause to be prepared a stockholder list as of the most recent practicable date which shall not be more than ten business days before the date of the bidder's request.

(iii) The subject bank shall make an election to comply and shall comply with all of the provisions of either subparagraph (2) or subparagraph (3) of this paragraph. The subject's bank's election, once made, shall not be modified or revoked during the bidder's tender offer and extensions thereof.

(iv) No later than the second business day after the date of the bidder's request, the subject bank shall orally notify the bidder, which notification shall be confirmed in writing, of the subject bank's election made pursuant to subparagraph (1)(iii) of this paragraph. Such notification shall indicate (A) the approximate number of security holders of the class of securities being sought by the bidder and, (B) if the subject bank elects to comply with subparagraph (2) of this paragraph, appropriate information concerning the location for delivery of the bidder's tender offer materials and the approximate direct costs incidental to the mailing to security holders of the bidder's tender offer materials computed in accordance with subparagraph (7)(ii) of this paragraph.

(2) *Mailing of tender offer materials by the subject bank.* A subject bank which elects pursuant to subparagraph (1)(iii) of this paragraph to comply with the provisions of this paragraph shall perform the acts prescribed by the following subparagraphs.

(i) The subject bank shall promptly contact each participant named on the most recent security position listing of any clearing agency within the access of the subject bank and make inquiry of each such participant as to the approximate number of beneficial owners of the subject bank securities being sought in the tender offer held by each such participant.

(ii) No later than the third business day after delivery of the bidder's tender offer materials pursuant to subparagraph (7)(i) of this paragraph, the subject bank shall begin to mail or cause to be mailed by means of first class mail a copy of the bidder's tender offer materials to each person whose name appears as a record holder of the class of securities for which the offer is made on the most recent stockholder list referred to in subparagraph (1)(ii) of this paragraph. The subject bank shall use its best efforts to complete the mailing in a timely manner but in no event shall such mailings be completed in a substantially greater period of time than the subject bank would complete a mailing to security holders of its own materials relating to the tender offer.

(iii) No later than the third business day after the delivery of the bidder's tender offer materials pursuant to subparagraph (7)(i) of this pargraph, the subject bank shall begin to transmit or cause to be transmitted a sufficient number of sets of the bidder's tender offer materials to the participants named on the security position listings described in subparagraph (2)(i) of this paragraph. The subject bank shall use its best efforts to complete the transmittal in a timely manner but in no event shall such transmittal be completed in a substantially greater period of time than the subject bank would complete a transmittal to such participants pursuant to security position listings or clearing agencies of its own material relating to the tender offer.

(iv) The subject bank shall promptly give oral notification to the bidder, which notification shall be confirmed in writing, of the commencement of the mailing pursuant to subparagraph (2)(ii) of this paragraph and of the transmittal pursuant to subparagraph (2)(iii) of this paragraph.

(v) During the tender offer and any extension thereof the subject bank shall use reasonable efforts to update the stockholder list and shall mail or cause to be mailed promptly following each update a copy of the bidder's tender offer materials (to the extent sufficient sets of such materials have been furnished by the bidder) to each person who has become a record holder since the later of (A) the date of preparation of the most recent stockholder list referred to in subparagraph (e)(1)(ii) of this section or (B) the last preceding update.

(vi) If the bidder has elected pursuant to subparagraph (6)(i) of this paragraph to require the subject bank to disseminate amendments disclosing material changes to the tender offer

*materials pursuant to this paragraph, the subject bank, promptly following delivery of each such amendment, shall mail or cause to be mailed a copy of each such amendment to each record holder whose name appears on the shareholder list described in subparagraphs (1)(ii) and (2)(v) of this paragraph and shall transmit or cause to be transmitted sufficient copies of such amendment to each participant named on security position listings who received sets of the bidder's tender offer materials pursuant to subparagraph (2)(iii) of this paragraph.

(vii) The subject bank shall not include any communication other than the bidder's tender offer materials or amendments thereto in the envelopes or other containers furnished by the bidder.

(viii) Promptly following the termination of the tender offer, the subject bank shall reimburse the bidder the excess, if any, of the amounts advanced pursuant to subparagraph (6)(iii)(C) over the direct cost incidential to compliance by the subject bank and its agents in performing the acts required by this paragraph computed in accordance with subparagraph (7)(ii) of this paragraph.

(3) *Delivery of stockholder lists and security position listings.* A subject bank which elects pursuant to subparagraph (1)(iii) of this paragraph to comply with the provisions of this paragraph shall perform the acts prescribed by the following:

(i) No later than the third business day after the date of the bidder's request the subject bank shall furnish to the bidder at the subject bank's principal executive office a copy of the names and addresses of the record holders on the most recent stockholder list referred to in subparagraph (1)(ii) of this paragraph and a copy of the names and addresses of participants identified on the most recent security position listing of any clearing agency which is within the access of the subject bank.

(ii) If the bidder has elected pursuant to subparagraph (6)(i) of this paragraph to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials, the subject bank shall update the stockholder list by furnishing the bidder with the name and address of each record holder named on the stockholder list, and not previously furnished to the bidder, promptly after such information becomes available to the subject bank during the tender offer and any extensions thereof.

(4) *Liability of subject bank and others.* Neither the subject bank nor any affiliate or agent of the subject bank nor any clearing agency shall be:

(i) Deemed to have made a solicitation or recommendation respecting the tender offer within the meaning of section 14(d)(4) based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more requirements of this section;

(ii) Liable under any provision of the Federal securities laws to the bidder or to any security holder based solely upon the inaccuracy of the current names or addresses on the stockholder list or securities position listing, unless such inaccuracy results from a lack of reasonable care on the part of the subject bank or any affiliate or agent of the subject bank.

(iii) Deemed to be an "underwriter" within the meaning of section (2)(11) of the Securities Act of 1933 for any purpose of that Act or any rule or regulation promulgated thereunder based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this paragraph;

(iv) Liable under any provision of the federal securities laws for the disclosure in the bidder's tender offer materials, including any amendment thereto, based solely upon the compliance or noncompliance by the subject bank or any affiliate or agent of the subject bank with one or more of the requirements of this paragraph.

(5) *Content of the bidder's request.* The bidder's written request referred to in subparagraph (1) of this paragraph shall include the following:

(i) The identity of the bidder;

(ii) The title of the class of securities which is the subject of the bidder's tender offer;

(iii) A statement that the bidder is making a request to the subject bank pursuant to subparagraph (1) of this paragraph for the use of the stockholder list and security position listings for the purpose of disseminating a tender offer to security holders;

(iv) A statement that the bidder is aware of and will comply with the provisions of subparagraph (6) of this paragraph;

(v) A statement as to whether or not it has elected pursuant to subparagraph (6)(i) of this paragraph to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph; and

(vi) The name, address and telephone number of the person whom the subject bank shall contact pursuant to subparagraph (1)(iv) of this paragraph.

(6) *Obligations of the bidder.* Any bidder who requires that a subject bank comply with the provisions of subparagraph (1) of this paragraph, shall comply with the following:

(i) The bidder shall make an election whether or not to require the subject bank to disseminate amendments disclosing material changes to the tender offer materials pursuant to this paragraph, which election shall be included in the request referred to in subparagraph (1) of this paragraph and shall not be revocable by the bidder during the tender offer and extensions thereof.

(ii) With respect to a tender offer subject to section 14(d)(1) of the Act in which the consideration consists solely of cash and/or securities exempt from registration under section 3 of the Securities Act of 1933, the bidder shall comply with the requirements of paragraph (d)(1)(iii) of this section.

(iii) If the subject bank elects to comply with subparagraph (2) of this paragraph:

(A) The bidder shall promptly deliver the tender offer materials after receipt of the notification from the subject bank, as provided in subparagraph (1)(iv) of this paragraph;

(B) The bidder shall promptly notify the subject bank of any amendment to the bidder's tender offer materials requiring compliance by the subject bank with subparagraph (2)(vi) of this paragraph and shall promptly deliver such amendment to the subject bank pursuant to subparagraph (7)(i) of this paragraph;

(C) The bidder shall advance to the subject bank an amount equal to the approximate cost of conducting mailings to security holders computed in accordance with subparagraph (7)(ii) of this paragraph;

(D) The bidder shall promptly reimburse the subject bank for the direct costs incidental to compliance by the subject bank and its agents in performing the act required by this section computed in accordance with subparagraph (7)(ii) of this paragraph which are in excess of the amount advanced pursuant to subparagraph (6)(iii)(C) of this paragraph, and

(E) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials.

(iv) If the subject bank elects to comply with subparagraph (3) of this paragraph:

(A) The subject bank shall use the stockholder and security position listings furnished to the bidder pursuant to subparagraph (3) of this paragraph

exclusively in the dissemination of tender offer materials to security holders in connection with the bidder's tender offer and extensions thereof;

(B) The bidder shall return the stockholder lists and security position listings furnished to the bidder pursuant to subparagraph (3) of this paragraph promptly after the termination of the bidder's tender offer;

(C) The bidder shall accept, handle and return the stockholder lists and security position listings furnished to the bidder pursuant to subparagraph (3) of this paragraph to the subject bank on a confidential basis;

(D) The bidder shall not retain any stockholder list or security position listing furnished by the subject bank pursuant to subparagraph (3) of this paragraph, or any copy thereof, nor retain any information derived from any such list or listing or copy thereof after the termination of the bidder's tender offer;

(E) The bidder shall mail by means of first class mail, at its own expense, a copy of its tender offer materials to each person whose identity appears on the stockholder list as furnished and updated by the subject bank pursuant to subparagraphs (3)(i) and (3)(ii) of this paragraph;

(F) The bidder shall contact the participants named on the security position listing of any clearing agency, make inquiry of each participant as to the appropriate number of sets of tender offer materials required by each such participant, and furnish, at its own expense, sufficient sets of tender offer materials and any amendment thereto to each such participant for subsequent transmission to the beneficial owners of the securities being sought by the bidder;

(G) The bidder shall mail by means of first class mail or otherwise furnish with reasonable promptness the tender offer materials to any security holder who requests such materials; and

(H) The bidder shall promptly reimburse the subject bank for direct costs incidental to compliance by the subject bank and its agents in performing the acts required by this section computed in accordance with subparagraph (7)(ii) of this paragraph.

(7) *Delivery of materials, computation of direct costs.* (i) Whenever the bidder is required to deliver tender offer materials or amendments to tender offer materials, the bidder shall deliver to the subject bank at the location specified by the subject bank in its notice given pursuant to subparagraph (1)(iv) of this paragraph a number of sets of the materials or of the amendment, as the case may be, at least equal to the approximate number of security holders specified by the subject bank in such notice, together with appropriate envelopes or other containers therefor: *Provided, however,* That such delivery shall be deemed not to have been made unless the bidder has complied with subparagraph (6)(iii)(C) of this paragraph at the time the materials or amendments, as the case may be, are delivered.

(ii) The approximate direct cost of mailing the bidder's tender offer materials shall be computed by adding (A) the direct cost incidental to the mailing of the subject bank's last annual report to shareholders (excluding employee time), less the costs of preparation and printing of the report, and postage, plus (B) the amount of first class postage required to mail the bidder's tender offer materials. The approximate direct costs incidental to the mailing of the amendments to the bidder's tender offer materials shall be computed by adding (C) the estimated direct costs of preparing mailing labels, or updating shareholder lists and of third party handling charges plus (D) the amount of first class postage required to mail the bidder's amendment. Direct costs incidental to the mailing of the bidder's tender offer materials thereto when finally computed may include all reasonable charges paid by the subject bank to third parties for supplies or services, including costs attendant to preparing shareholder lists, mailing labels, handling the bidder's materials, contacting participants named on security position listings and for postage, but shall exclude indirect costs, such as employee time which is devoted to either contesting or supporting the tender offer on behalf of the subject bank. The final billing for direct costs shall be accompanied by an appropriate accounting in reasonable detail.

(f) *Disclosure requirements with respect to tender offers*—(1) *Information required on date of commencement*—(i) *Long-form publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of long-form publication pursuant to paragraph (d)(1)(i) of this section such long-form publication shall include the information required by subparagraph (5)(i) of this paragraph.

(ii) *Summary publication.* If a tender offer is published, sent or given to security holders on the date of commencement by means of summary publication pursuant to paragraph (d)(1)(ii) of this section:

(A) The summary advertisement shall contain and shall be limited to, the information required by subparagraph (5)(ii) of this paragraph; and

(B) The tender offer materials furnished by the bidder upon the request of any security holder shall include the information required by subparagraph (5)(i) of this paragraph.

(iii) *Use of stockholder lists and security position listings.* If a tender offer is published or sent or given to security holders on the date of commencement by the use of stockholder lists and security position listings pursuant to paragraph (d)(1)(iii) of this section:

(A) Either (1) the summary advertisement shall contain, and shall be limited to the information required by subparagraph (5)(ii) of this paragraph, or (2) if long-form publication of the tender offer is made, such long-form publication shall include the information required by subparagraph (5)(i) of this paragraph, and

(B) The tender offer materials transmitted to security holders pursuant to such lists and security position listings and furnished by the bidder upon the request of any security holder shall include the information required by subparagraph (5)(i) of this paragraph.

(iv) *Other tender offers.* If a tender offer is published or sent or given to security holders other than pursuant to paragraph (d)(1) of this section the tender offer materials that are published or sent or given to security holders on the date of commencement of such offer shall include the information required by subparagraph (5)(i) of this paragraph.

(2) *Information required in summary advertisement made after commencement.* A summary advertisement published subsequent to the date of commencement of the tender offer shall include at least the information specified in subparagraphs (5)(i)(A)–(D) and (5)(ii)(D) of this paragraph.

(3) *Information required in other tender offer materials published after commencement.* Except for summary advertisements described in subparagraph (2) of this paragraph and tender offer materials described in subparagraphs (1)(ii)(B) and (1)(iii)(B) of this paragraph, additional tender offer materials published, sent or given to security holders subsequent to the date of commencement shall include the information required by subparagraphs (5)(i) of this paragraph and may omit any of the information required by subparagraphs (5)(i)(E–H) of this paragraph which has been previously furnished by the bidder in connection with the tender offer.

(4) *Material changes.* A material change in the information published or sent or given to security holders shall be

promptly disclosed to security holders in additional tender offer materials.

(5) *Information to be included*—(i) *Long-form publication and tender offer materials.* The information required to be disclosed by subparagraphs (1)(i), (1)(ii)(B), (1)(iii)(A)(b) and (1)(iv) of this paragraph shall include the following:

(A) The identity of the holder;

(B) The identity of the subject bank;

(C) The amount of class of securities being sought and the type and amount of consideration being offered therefor;

(D) The scheduled expiration date of the tender offer, whether the tender offer may be extended and, if so, the procedures for extension of the tender offer;

(E) The exact dates prior to which, and after which, security holders who deposit their securities will have the right to withdraw their securities pursuant to section 14(d)(5) of the Act and paragraph (g) of this section and the manner in which shares will be accepted for payment and in which withdrawal may be effected;

(F) If the tender offer is for less than all the outstanding securities of a class of equity securities and the bidder is not obligated to purchase all of the securities tendered, the period or periods, and in the case of the period from the commencement of the offer, the date of the expiration of such period during which the securities will be taken up pro rata pursuant to Section 14(d)(6) of the Act or paragraph (h) and the present intention or plan of the bidder with respect to the tender offer in the event of an oversubscription by security holders;

(G) The disclosure required by Items 1(c); 2 (with respect to persons other than the bidder, excluding sub-items (b) and (d)); 3; 4; 5; 6; 7; 8; and 10 of Form F–13 (12 CFR 206.82) or a fair and adequate summary thereof; *Provided, however,* That negative responses to any such item or sub-item of Form F–13 need not be included; and

(H) The disclosure required by Item 9 of Form F–13 or a fair and adequate summary thereof. If the information required by Item 9 is summarized, appropriate instructions shall be included stating how complete financial information can be obtained.

(ii) *Summary publication.* The information required to be disclosed by subparagraphs (1)(ii)(A) and (1)(iii)(A)(a) of this paragraph in a summary advertisement is as follows:

(A) The information required by subparagraph (5)(i) (A) through (F) of this paragraph;

(B) If the tender offer is for less than all the outstanding securities of a class of equity securities, a statement as to whether the purpose or one of the purposes of the tender offer is to acquire or influence control of the business of the subject bank;

(C) A statement that the information required by subparagraph (5)(i)(G) of this paragraph is incorporated by reference into the summary advertisement;

(D) Appropriate instructions as to how security holders may obtain promptly, at the bidder's expense, the bidder's tender offer materials; and

(E) In a tender offer published or sent or given to security holders by the use of stockholder lists and security position listings pursuant to paragraph (d)(1)(iii) of this section a statement that a request is being made for such lists and listings and that tender offer materials will be mailed to record holders and will be furnished to brokers, banks and similar persons whose name appears or whose nominee appears on the list of stockholders or, if applicable, who are listed as participants in a clearing agency's security position listing for subsequent transmittal to beneficial owners of such securities.

(iii) *No transmittal letter.* Neither the initial summary advertisement nor any subsequent summary advertisement shall include a transmittal letter (whereby securities of the subject bank which are sought in the tender offer may be transmitted to the bidder or its depository) or any amendment thereto.

(g) *Additional withdrawal rights*—(1) *Rights.* In addition to the provisions of section 14(d)(5) of the Act, any person who has deposited securities pursuant to a tender offer has the right to withdraw any such securities during the following periods:

(i) At any time until the expiration of 15 business days from the date of commencement of such tender offer; and

(ii) On the date and until the expiration of ten business days following the date of commencement of another bidder's tender offer other than pursuant to paragraph (b)(2) of this section for securities of the same class: *Provided,* That the bidder has received notice or otherwise has knowledge of the commencement of such other tender offer: *And, provided further,* That withdrawal may only be effected with respect to securities which have not been accepted for payment in the manner set forth in the bidder's tender offer prior to the date such other tender offer is first published, sent or given to security holders.

(2) *Computation of time periods.* The time periods for withdrawal rights pursuant to this section shall be computed on a concurrent, as opposed to a consecutive basis.

(3) *Knowledge of competing offer.* For the purposes of this section, a bidder shall be presumed to have knowledge of another tender offer, as described in subparagraph (1)(ii) of this paragraph, on the date such bidder receives a copy of the Form F–13 (12 CFR 206.82) pursuant to paragraph (c) of this section from such other bidder.

(4) *Notice of withdrawal.* Notice of withdrawal pursuant to this paragraph shall be deemed to be timely upon the receipt by the bidder's depository of a written notice of withdrawal specifying the name(s) of the tendering stockholder(s), the number or amount of the securities to be withdrawn and the name(s) in which the certificate(s) is (are) registered, if different from that of the tendering security holder(s). A bidder may impose other reasonable requirements, including certificate numbers and a signed request for withdrawal accompanied by a signature guarantee, as conditions precedent to the physical release of withdrawn securities.

(h) *Exemption from statutory pro rata requirements.* The limited pro rata provisions of section 14(d)(6) of the Act shall not apply to any tender offer for less than all the outstanding securities of the class for which the tender offer is made to the extent that the bidder provides in the tender offer materials disseminated to security holders on the date of commencement of the tender offer that in the event more securities are deposited during the period(s) described in subparagraphs (1) and/or (2) of this paragraph than the bidder is bound or willing to accept for payment, all securities deposited during such period(s) will be acceptable for payment as nearly as practicable on a pro rata basis, disregarding fractions, according to the number of securities deposited by each depositor.

(1) Any period which exceeds ten days from the date of commencement of the tender offer.

(2) Any period which exceeds ten days from the date that notice of an increase in the consideration offered is first published, sent or given to security holders.

(i) *Solicitations/recommendations statements with respect to certain tender offers*—(1) *Filing and transmittal of recommendation statement.* No solicitation or recommendation to security holders shall be made by recommendation to security holders shall be made by any person described in subparagraph (4) of this paragraph with respect to a tender offer for such securities unless as soon as practicable on the earliest date such solicitation or recommendation is first published or

sent or given to security holders such person complies with the following subparagraphs.

(i) Such person shall file with the Board six copies of a Tender Offer Solicitation/Recommendation Statement on Form F–12 (12 CFR 206.81) including all exhibits thereto; and

(ii) If such person is either the subject bank or an affiliate of the subject bank,

(A) Such person shall deliver a copy of the Form F–12 to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 (12 CFR 206.82) filed with the Commission; and

(B) Such person shall give telephonic notice (which notice to the extent possible shall be given prior to the opening of the market) of the information required by Items 2 and 4(a) of Form F–12 and shall mail a copy of the Form to each national securities exchange where the class of securities is registered and listed for trading and, if the class is authorized for quotation in the NASDAQ interdealer quotation system, to the National Association of Securities Dealers, Inc. ("NASD").

(iii) If such person is neither the subject bank nor an affiliate of the subject bank,

(A) Such person shall mail a copy of the schedule to the bidder at its principal office or at the address of the person authorized to receive notices and communications (which is set forth on the cover sheet of the bidder's Form F–13 filed with the Board), and

(B) Such person shall mail a copy of the Form to the subject bank at its principal office.

(2) *Amendments.* If any material change occurs in the information set forth in the Form F–12 required by this section, the person who filed such Form F–12 shall:

(i) File with the Board six copies of an amendment on Form F–12 disclosing such change promptly, but not later than the date such material is first published, sent or given to security holders; and

(ii) Promptly deliver copies and give notice of the amendment in the same manner as that specified in subparagraph (1)(ii) or subparagraph (1)(iii) of this paragraph, whichever is applicable; and

(iii) Promptly disclose and disseminate such change in a manner reasonably designed to inform security holders of such change.

(3) *Information required in solicitation or recommendation.* Any solicitation or recommendation to holders of a class of securities referred to in section 14(d)(1) of the Act with respect to a tender offer for such securities shall include the name of the person making such solicitation or recommendation and the information required by Items 1, 2, 3(b), 4, 6, 7 and 8 of Form F–12 or a fair and adequate summary thereof: *Provided, however,* That such solicitation or recommendation may omit any such information previously furnished to security holders of such class of securities by such person with respect to such tender offer.

(4) *Applicability.* (i) Except as is provided in subparagraphs (4)(ii) and (5) of this paragraph, paragraph (i) shall only apply to the following persons:

(A) The subject bank, any director, officer, employee, affiliate or subsidiary of the subject bank;

(B) Any record holder or beneficial owner of any security issued by the subject bank, by the bidder, or by any affiliate of either the subject bank or the bidder; and

(C) Any person who makes a solicitation or recommendation to security holders on behalf of any of the foregoing or on behalf of the bidder other than by means of a solicitation or recommendation to security holders which has been filed with the board pursuant to this paragraph or paragraph (c) of this section.

(ii) Notwithstanding paragraph (4)(i) of this paragraph, paragraph (i) shall not apply to the following persons:

(A) A bidder who has filed a Form F–13 pursuant to paragraph (c) of this section;

(B) Attorneys, banks, brokers, fiduciaries or investment advisers who are not participating in a tender offer in more than a ministerial capacity and who furnish information and/or advice regarding such tender offer to their customers or clients on the unsolicited request and such customers or clients or solely pursuant to a contract or a relationship providing for advice to the customer or client to whom the information and/or advice is given.

(5) *Stop-look-and-listen communication.* Paragraph (i) shall not apply to the subject bank with respect to a communication by the subject bank to its security holders which only:

(i) Identifies the tender offer by the bidder;

(ii) States that such tender offer is under consideration by the subject bank's board of directors and/or management;

(iii) States that on or before a specified date (which shall be no later than 10 business days from the date of commencement of such tender offer) the subject bank will advise such security holders of (A) whether the subject bank recommends acceptance or rejection of such tender offer; expresses no opinion and remains neutral toward such tender offer; or is unable to take a position with respect to such tender offer and (B) the reason(s) for the position taken by the subject bank with respect to the tender offer (including the inability to take a position); and

(iv) Requests such security holders to deter making a determination whether to accept or reject such tender offer until they have been advised of the subject bank's position with respect thereto pursuant to subparagraph (5)(iii) of this paragraph.

(6) *Statement of management's position.* A statement by the subject bank of its position with respect to a tender offer which is required to be published or sent or given to security holders pursuant to paragraph (m) of this section shall be deemed to constitute a solicitation or recommendation within the meaning of this section and section 14(d)(4) of the Act.

(j)–(l) [Reserved]

(m) *Unlawful tender offer practices.* No person who makes a tender offer shall:

(1) Hold such tender offer open for less than twenty business days from the date such offer is first published or sent or given to security holders.

(2) Increase the offered consideration or the dealer's soliciting fee to be given in tender offer unless such tender offer remains open for at least ten business days from the date that notice of such increase is first published, sent or given to security holders.

(3) Fail to pay the consideration offered or return the securities deposited by or on behalf of security holders promptly after the termination or withdrawal of a tender offer.

(4) Extend the length of a tender offer without issuing a notice of such extension by press release or other public announcement, which notice shall include disclosure of the approximate number of securities deposited to date and shall be issued no later than the earlier of (i) 9:00 a.m. Eastern time, on the next business day after the scheduled expiration date of the offer or (ii), if the class of securities which is the subject of the tender offer is registered on one or more national securities exchanges, the first opening of any one of such exchanges on the next business day after the scheduled expiration date of the offer.

(5) *Position of subject bank.* As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices within the meaning of section 14(e) of the Act, the subject

bank, no later than 10 business days from the date the tender offer is first published or sent or given, shall publish, send or give to security holders a statement disclosing that the subject bank:

(i) Recommends acceptance or rejection of the bidder's tender offer;

(ii) Expresses no opinion and is remaining neutral toward the bidder's tender offer; or

(iii) Is unable to take a position with respect to the bidder's tender offer. Such statement shall also include the reason(s) for the position (including the inability to take a position) disclosed therein.

(6) *Material change.* If any material change occurs in the disclosure required by this section, the subject bank shall promptly publish, send or give a statement disclosing such material change to security holders.

(n) *Material Change.* If any material change occurs in the facts set forth in the statement required by paragraph (c)(1) of this section, the person who filed such statement shall promptly file with the Board an amendment disclosing such change.

(o) *Restrictions on Control Persons:* When a person makes a tender offer for, or a request or invitation for tenders of, any class of equity securities of a bank registered pursuant to section 12 of the Act, and such person has filed a statement with the Board pursuant to this section, any other person controlling, or controlled by or under common control with ("control person"), the issuing bank shall not thereafter, during the period such tender offer, request or invitation continues, purchase any class of equity securities of the issuing bank unless:

(1) The control person has filed with the Board a statement containing the information specified below with respect to any proposed purchases:

(i) The title and amount of equity securities to be purchased, the names of the persons or classes or persons from whom, and the market in which, the securities are to be purchased, including the name of any exchange on which the purchase is to be made;

(ii) The purpose for which the purchase is to be made and any plan or proposal for the disposition of such securities; and

(iii) The source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading the securities, a description of the transaction and the names of the parties thereto.

(2) The control person has at any time within the past 6 months sent or given to the equity security holders of the issuing bank the substance of the information contained in the statement required by paragraph (o)(1) of this section and a copy has been filed with the Board.

§ 206.41 [Amended]

(6) Section 206.41 (Form F-1) is amended by removing subsection (b) of Item 10 in its entirety.

§ 206.42 [Amended]

(7) Section 206.42 (Form F-2) is corrected by (a) changing the word "appropriate" in paragraph (g) of Item 3 to "approximate;"and (b) adding the phrase "per share" between the words "and" and "dividends" in the first sentence of instruction (2) to Item 4.

§ 206.44 [Amended]

(8) Section 206.44 (Form F-4) is corrected by: (a) removing footnote (1) from Part B; (b) changing the references in Part C to footnote 2 to footnote 1.

§ 206.51 [Amended]

(9) Section 206.51 (Form F-5) is amended by (a) removing the phrase "the management of" in Item 3, paragraphs (1) and (2); (b) removing the word "management" in Item 3(a), paragraph 1, Item 4(4), paragraphs (1) and (2), Item 6 and adding the word "bank"; and; (c) removing the phrase, "of management" in Item 8.

(10) Section 206.51 would be amended by revising the title of the section and the Form F-5; paragraph (c) of item 5 and paragraph (i) of item 6 is redesignated as paragraph (j) and a new paragraph (i) of item 6 is added, all to read as follows:

§ 206.51 Form for proxy statement or statement where the bank does not solicit proxies (Form F-5).

Board of Governors of the Federal Reserve System

Form F-5.—Proxy Statement or Statement Where Management Does Not Solicit Proxies

* * * * *

Item 5. * * *

(C) If action is to be taken with respect to the election of directors and if the persons solicited have cumulative voting rights, (1) make a statement that they have such rights, (2) briefly describe such rights, (3) state briefly the conditions precedent to the exercise thereof, and (4) if discretionary authority to cumulate votes is solicited, so indicate.

* * * * *

Item 6. Directors and Principal Officers.

* * * * *

(i) *Shares voted at last meeting.* With respect to those classes of voting stock which participated in the election of directors at the most recent meeting at which directors were elected:

(1) State in an introductory paragraph the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors; and (2) disclose in tabular format, following such introductory paragraph, the percentage of total shares cast for and withold from the vote for or, where applicable, cast against, each nominee, which respectively, were voted for and withheld from the vote for, or voted against, such nominee. When groups of classes or series of classes vote together in the election of a director of directors, they shall be treated as a single class for the purpose of the preceding sentence.

Instructions. 1. Calculate the percentage of shares present at the meeting and voting or withholding authority to vote in the election of directors, referred to in paragraph g(1), by dividing the total shares cast for and withheld from the vote for or, where applicable, voted against, the director in respect of whom the highest aggregate number of shares was cast by the total number of shares outstanding which were eligible to vote as of the record date for the meeting.

(2) No information need be given in response to Item 6(g) unless, with respect to any class of voting stock (or group of classes which voted together), 5 percent or more of the total shares cast for and withheld from the vote for or, where applicable, cast against any nominee were withheld from the vote for or case against such nominee.

(3) If a bank elects less than the entire board of directors annually, disclosure is required as to all directors if 5 percent or more of the total shares cast for and withheld from, the vote for, or where applicable, cast against any incumbent director were withheld from, or cast against the vote for such director at the meeting at which he was most recently elected.

(4) No information need be given in response to Item 6(g) if the bank has previously furnished to its security holders a report of the results of the most recent meeting of security holders at which directors were elected which includes: (1) A description of each matter voted upon at the meeting and a statement of the percentage of the shares voting which were voted for and against each such matter; and (2) the information which would be called for by this Item 6(g). If a bank has previously furnished such results to its security holders, this fact should be set forth in the bank's cover letter accompanying the filing of preliminary proxy materials with the Board.

* * * * *

§ 206.53 [Redesignated as § 206.81 and Revised]

(8) Section 206.53 (Form F-12) is redesignated as § 206.81 (Form F-12) and would be revised as follows:

§ 206.81 Form for statement to be filed pursuant to Section 13(d)(4) of the Securities and Exchange Act of 1934 (Form F-12)

Board of Governors of the Federal Reserve System

Form F-12—Solicitation/Recommendation Statement Pursuant to Section 14(d)(4) of the Securities Exchange Act of 1934

(Amendment No.)

(Name of Subject Bank)

(Name of Person(s) Filing Statement)

(Title of Class of Securities)

(CUSIP Number of Class of Securities)

(Name, address and telephone number of person authorized to receive notice and communications on behalf of the person(s) filing statement)

Instructions: Six copies of this statement including all exhibits, should be filed with the Board.

General Instructions: A. The items numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative so state.

(B) Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Board for all purposes of the Act.

Item 1. Security and Subject Company. State the title of the class of equity. Securities to which this statement relates and the name and the address of the principal executive offices of the subject bank.

Item 2. Tender Offer of the Bidder. Identify the tender offer to which this statement relates, the name of the bidder and the address of its principal executive offices or, if the bidder is a natural person, the bidder's residence or business address (which may be based on the bidder's Form F-13 (12 CFR 206.82) filed with the Board).

Item 3. Identity and Background. (a) State the name and business address of the person filing this statement.

(b) If material, describe any contract, agreeement, arrangement or understanding and any actual or potential conflict of interest between the person filing this statement or its affiliates and: (1) The subject bank, its executive officers, directors or affiliates; or (2) the bidder, its executive officers, directors or affiliates.

Instruction: If the person filing this statement is the subject bank and if the materiality requirement of Item 3(b) if applicable to any contract, agreement, arrangement or understanding between the subject bank or any affiliate of the subject bank and any executive officer or director of the subject bank, it shall not be necessary to include a description thereof in this statement, or in any solicitation or recommendation published, sent or given to security holders if such information, or information which does not differ materially from such information, has been disclosed in any proxy statement, report or other communication sent within one year of the filing date of this statement by the subject bank to the then holders of the securities and has been filed with the Board: *Provided,* That this statement and the solicitation or recommendation published, sent or given to security holders shall contain specific reference to such proxy statement, report or other communication and that a copy of the pertinent portion(s) thereof is filed as an exhibit to this statement.

Item 4. The Solicitation or Recommendation. (a) State the nature of the solicitation or the recommendation. If this statement relates to a recommendation, state whether the person filing this statement is advising security holders of the securities being sought by the bidder to accept or reject the tender offer or to take other action with respect to the tender offer and, if so, furnish a description of such other action being recommended. If the person filing this statement is the subject bank and a recommendation is not being made, state whether the subject bank is either expressing no opinion and is remaining neutral toward the tender offer or is unable to take a position with respect to the tender offer.

(b) State the reason(s) for the position (including the inability to take a position) stated in (a) of this Item.

Instruction: Conclusory statement such as "The tender offer is in the best interest of shareholders," will not be considered sufficient disclosure in response to item 4(b).

Item 5. Persons Retained, Employed or To Be Compensated. Identify any person or class of persons employed, retained or to be compensated by the person filing this statement or by any person on its behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 6. Recent Transactions and Intent With Respect To Securities. (a) Describe any transaction in the securities referred to in Item 1 which was affected during the past 60 days by the person(s) named in response to Item 3(a) and by any executive officer, director, affiliate or subsidiary of such person(s).

(b) To the extent known by the person filing this statement, state whether the persons referred to in Item 6(a) presently intend to tender to the bidder, sell or hold securities of the class of securities being sought by the bidder which are held of record or beneficially owned by such person.

Item 7. Certain Negotiations and Transactions by the Subject Bank. (a) If the person filing this statement is the subject bank, state whether or not any negotiation is being undertaken or is underway by the subject bank in response to the tender offer which relates to or would result in:

(1) An extraordinary transaction such as a merger or reorganization, involving the subject bank, or any subsidiary of the subject bank;

(2) A purchase, sale or transfer of a material amount of assets by the subject bank or any subsidiary of the subject bank;

(3) A tender offer for or other acquisition of securities by or of the subject bank; or

(4) Any material change in the present capitalization or dividend policy of the subject bank.

Instruction. If no agreement in principle has yet been reached, the possible terms of any transaction or the parties thereto need not be disclosed if in the opinion of the Board of Directors of the subject bank such disclosure would jeopardize continuation of such negotiations. In such event, disclosure that negotiations are being undertaken or are underway and are in the preliminary stages will be sufficient.

(b) Describe any transaction, board resolution, agreement in principle, or a signed contract in response to the tender offer, other than one described pursuant to Item 3(b) of this statement, which relates to or would result in one or more of the matters referred to in Item 7(a) (1), (2), (3) or (4).

Item 8. Additional Information To Be Furnished. Furnish such additional information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

Item 9. Material To Be Filed as Exhibits. Furnish a copy of: (a) Any written solicitation or recommendation which is published or sent or given to security holders in connection with the solicitation or recommendation referred to in Item 4.

(b) If any oral solicitation or recommendation to security holders is to be made by or on behalf of the person filing this statement, any written instruction, or other material which is furnished to the persons making the actual oral solicitation or recommendation for their use, directly or indirectly, in connection with the solicitation or recommendation.

(c) Any contract, agreement, arrangement or understanding described in Item 3(b) or the pertinent portion(s) of any proxy statement, report or other communication referred to in Item 3(b).

Signature. After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

_____

(Date)

_____

(Signature)

_____

(Name and Title)

Instruction. The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer of a corporation or bank or a general partner of a partnership), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

§ 206.54 [Redesignated as § 206.82 and Amended]

(9) Section 206.54 (Form F–13) is redesignated § 206.82 and the title, General Instructions B and C and Instruction No. 2 of Item 6 would be revised as follows:

§ 206.82 Statement to be filed pursuant to Section 14(d)(1) of the Securities Exchange Act of 1934 (Form F–13).

* * * * *

General Instructions. A.

* * * * *

B. Information in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer misleading, incomplete, unclear or confusing. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Comptroller for all purposes of the Act.

C. If the statement is filed by a partnership, limited partnership, syndicate or other group, the information called for by Items 2–7, inclusive, shall be given with respect to: (i) Each partner of such partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a bank or corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a bank or corporation, the information called for by the above mentioned items shall be given with respect to: (a) Each Executive officer and director of such bank or corporation; (b) each person controlling such bank or corporation; and (c) each executive officer and director of any bank or corporation ultimately in control of such bank or corporation. A response to an item in the statement is required with respect to the bidder and to all other persons referred to in this instruction unless such item specifies to the contrary.

* * * * *

Item 6. Interest in securities of the subject bank.

* * * * *

Instructions 1. * * *

2. If the information required by Item 6(b) of this Form is available to the bidder at the time this statement is initially filed with the Board pursuant to paragraph (d)(1)(i) of this section, such information should be included in such initial filing. However, if such information is not available to the bidder at the time of such initial filing, it shall be filed with the Board promptly but in no event later than two business days after the date of such filing and, if material, shall be disclosed in a manner reasonably designed to inform security holders. The procedure specified by this instruction is provided for the purpose of maintaining the confidentiality of the tender offer in order to avoid possible misuse of inside information.

* * * * *

(11) Section 206.104 is added to read as follows:

§ 206.104 Board policy regarding issuer tender offer and going private transactions.

The Board is not proposing to amend Regulation F to conform it to the Securities and Exchange Commission's "issuer tender offer" regulation. The Board must approve any reduction in the amount, or the retirement of any part of a member bank's common or preferred capital stock pursuant to section 9 of the Federal Reserve Act, 12 U.S.C. 324(i) (1970). The Board also notes that issuer tender offers are very rare among member banks. Therefore, instead of adopting substantially similar regulations to Rule 13e–4 and Schedule 13E–101, the Board will withhold its approval to the reduction in the amount or the retirement of any part of a member bank's equity securities registered under Section 12 of the Act unless the requirements of rules 13e–4 and 13e–101 are met in all material respects. Also, the Board is not proposing to amend Regulation F to conform it to the Commission's "going private" regulations. The Board notes that its supervisory powers under the Federal Reserve Act make those member bank issuers with classes of equity securities registered pursuant to Section 12 subject to more extensive regulatory oversight than most issuers subject to Commission's jurisdiction. Pursuant to Section 9 of the Federal Reserve Act, the Board must approve substantially all of the corporate transactions involving member banks subject to Rule 13e–3. Instead of adopting the Commission's "going private" regulations the Board will withhold its approval to any Rule 13e–3 type corporate transaction unless the requirements of rules 13e–3 and 13e–100 are met in all material respects. *See*, 45 FR 71575 (Oct. 29, 1980).

By order of the Board of Governors, January 28, 1981.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 81–4218 Filed 2–5–81; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79–54; Order No. 70–D]

Order Amending Regulations

Issued: January 28, 1981.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Amending Regulations.

SUMMARY: The Federal Energy Regulatory Commission (Commission) hereby adopts an order amending regulations. The Order amends § 292.206 of the Commission's rules which establishes the ownership criteria for qualifying facilities. The Order enables certain "electric utilities" which are not "primarily engaged in the generation or sale of electric energy" to own up to 100 percent of a qualifying facility.

EFFECTIVE DATE: January 28, 1981.

FOR FURTHER INFORMATION CONTACT:

Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8033

or

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The Federal Energy Regulatory Commission (Commission) has the authority to certify small power production and cogeneration facilities as qualifying facilities, pursuant to § 292.207 of the Commission's rules. Qualifying status exempts qualifying facilities from regulation under certain provisions of the Federal Power Act (FPA),[1] from regulation under the Public

[1] 18 C.F.R. § 292.601.

Utility Holding Company Act of 1935 (PUHCA)[2] and from certain state law and regulation [3] and allows such facilities to obtain the "avoided cost" rate for power purchased by an electric utility.

Recent applications to the Commission by persons seeking qualifying status have raised the issue of whether the 50 percent ownership restriction for electric utilities other than those generating power solely from cogeneration or small power production, established in § 292.206(b) of the Commission's rules, is consistent with the general rules of ownership established in section 201 of the Public Utility Regulatory Policies Act (PURPA) and § 292.206(a) of the Commission's rules.

Section 3(22) of the FPA, as amended by section 201 of PURPA, broadly defines an "electric utility" as "any person or State which sells electric energy". Section 3(17)(C)(ii) of the FPA, as amended by section 201 of PURPA, requires that a qualifying facility be "owned by a person not primarily engaged in the generation or sale of electric power (other than electric power *solely* from cogeneration facilities or small power production facilities)" (emphasis added). This requirement is implemented in § 292.206(a) of the Commission's rules. Section 292.206(b) of the Commission's rules, provides, *inter alia*, that a facility of which an electric utility or utilities, or an electric utility holding company or companies, or any combination thereof, owns more than 50 percent of the equity interest cannot obtain qualifying status.

Thus, a cogeneration or small power production facility of which an electric utility or utilities, or an electric utility holding company or companies, or any combination thereof, owns more than 50 percent of the equity interest, can be a qualifying facility only if all of the power gererated and sold by the parent utility or holding company is generated from cogeneration or small power production facilities.

Section 292.206(b) of the Commission's rules also provides that:

> If a wholly or partially owned subsidiary of an electric utility or electric utility holding company has an ownership interest of a facility, the subsidiary's ownership interest shall be considered as ownership by an electric utility or electric utility holding company.

In determining whether a facility is owned by an electric utility or an electric utility holding company, the Commission looks "upstream" to the parent company of a subsidiary which owns a cogeneration or small power production facility.

The Commission has recognized that the ownership restrictions for qualifying facilities in the original rule were overly strict in certain respects. In particular, In Order Nos. 70–B [4] and 70–C,[5] the Commission recognized that "certain companies which are not 'primarily engaged in the generation or sale of electric power' may nevertheless be classified as 'electric utilities' or 'electric utility holding companies'."

The Commission is aware of two cases in which a company would presently be defined as an "electric utility" under the FPA but should not be considered to be "primarily engaged in the generation or sale of electric power" for purposes of ownership of a qualifying facility.

The Commission will permit otherwise eligible cogeneration and small power production facilities owned by these types of companies to be qualifying facilities. However, the FPA requires that the Commission regulate any wholesale sales of power in interstate commerce where the power is generated from sources other than cogeneration or small power production facilities.[6] Only if a company can show that all of its wholesale power sales are from cogeneration or small power production facilities will such sales be exempt from regulation under the FPA.

CASE 1A—Exempt Electric Utility Holding Company

The first type of case involves a parent and subsidiary company ownership situation. In this case, the company which owns a small power production facility or cogeneration facility is also a subsidiary of an exempt electric utility holding company.

In Order No. 70–C[7] the Commission determined that electric utility holding companies that are exempt as such pursuant to either section 3(a)(3) or 3(a)(5) of the Public Utility Holding Company Act (PUHCA) will not be subject to the 50 percent ownership restriction.[8] Thus, a cogeneration or small power production facility which is directly owned by an exempt electric utility holding company can be a qualifying facility.

The Commission believes that it would be inconsistent not to allow a subsidiary electric utility to do directly what its exempt parent company can do indirectly. Thus, a subsidiary of a PUHCA section 3(a)(3) or 3(a)(5) exempt electric utility holding company will be allowed to own 100 percent of a qualifying facility whether or not the subsidiary is "primarily engaged in the generation or sale of electric power."

CASE 1B—Registered Electric Utility Holding Company

Under the rule stated above, if the parent company is an exempt electric utility holding company, any subsidiary of such a company may own 100 percent of a facility without disqualification. In the case of a parent company which is a registered electric utility holding company, § 292.206(b) of the Commission's rules prohibits a facility, of which the parent owns more than 50 percent, from obtaining qualifying status. For the purpose of determining the ownership of a facility, § 292.206(b) of the Commission's rules requires that the Commission look upstream to a parent electric utility or electric utility holding company. Thus, a facility, of which a subsidiary of a registered electric utility holding company owns more than 50 percent, cannot obtain qualifying status.

CASE 2—Exempt Electric Utility

The second case is, similarly, a two-level ownership situation. In this case, however, the subsidiary is an "electric

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[2] *Id.* § 292.602(b).

[3] *Id.* § 292.602(c).

[4] 45 FR 52779 (Aug. 8, 1980).

[5] 45 FR 66787 (Oct. 8, 1980).

In that order, the Commission amended its regulations to exclude from the definition of "electric utility holding company" any such company which is exempt by rule or order of the SEC pursuant to sections 3(a)(3) or 3(a)(5) of the Public Utility Holding Company Act of 1935.

The Commission reasoned that:

> a determination by the SEC that an electric utility holding company is exempt as such under either section 3(a)(3) or 3(a)(5) of PUHCA satisfies the requirement that a qualifying facility may not be owned by a person primarily engaged in the generation or sale of electric power.

[6] The State authorities may still regulate any retail sales made by a company, regardless of the company's ability to own qualifying facilities, and regardless of whether the sales are made from qualifying facilities.

[7] 45 FR 66787 (Oct. 8, 1980).

[8] Under § 292.202(n) of the Commission's rules, such companies are not considered to be "electric utility holding companies."

utility" pursuant to section 3(22) of the FPA but has been declared by the SEC *not* to be an "electric utility" pursuant to section 2(a)(3)(A) of PUHCA.

Section 2(a)(3) of PUHCA defines an electric utility company as "any company which owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale." [9] This section of PUHCA also provides that the SEC:

> shall by order declare a company operating any such facilities not to be an electric utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of an electric utility company, and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company.[10]

The SEC may order such exclusion either by rule (where the company falls below certain *de minimus* standards) or on a case-by-case basis.

In this case, the Commission believes that a facility owned 100 percent by such a subsidiary should be allowed to obtain qualifying status. The statutory standard for exclusion of the subsidiary company from the definition of "electric utility" under PUHCA is identical to the ownership requirements expressed in sections 17(C)(ii) and 18(B)(ii) of the FPA. Both statutes require that the company *not* be primarily engaged in the generation or sale of electric power.

Thus, exclusion under section 2(a)(3)(A) of PUHCA means that a subsidiary company within a holding company system is not an "electric utility" for purposes of the ownership restriction established in § 292.206(b) of the Commission's rules. Therefore, a facility owned 100 percent by such a subsidiary company may obtain qualifying status.

The Commission notes that on May 19, 1980, Elizabethtown Gas Company filed a Petition for Review of Order No. 70 and of the Commission's Order on Rehearing of Order Nos. 69 and 70 in the United States Court of Appeals for the District of Columbia Circuit. On June 30, 1980, the Commission filed with the court the Certificate of Record in Lieu of Record. Under section 313(b) of the Federal Power Act, the Court has exclusive jurisdiction to modify those orders. Accordingly, this order is issued subject to the courts permission.

The Commission notes that several applications for certification as a qualifying small power production facility or cogeneration facility are pending before the Commission. As a result of the amendments to the rules in this Order, the pending applications may obtain qualifying status. The Commission believes it is in the public interest to issue the certification of qualifying status as soon as possible so the applicants may begin to produce power which will help the nation reduce its dependence on imported oil. For this reason, the Commission finds good cause to waive the 30 day requirement set forth in 5 U.S.C. § 553(d) and to make this rule effective on January 28, 1981.

[9] 15 U.S.C. § 79b(3).
[10] *Id.*

The Commission Orders

Section 292.206 is amended as set forth below effective January 28, 1981, for the reasons set forth below.

(Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et. seq.*; Energy Supply and Environmental Coordination Act, 15 U.S.C. § 791 *et. seq.*; Federal Power Act, as amended, 16 U.S.C. § 792 *et. seq.*; Department of Energy Organization Act, 42 U.S.C. § 7101 *et. seq.*; E.O. 12009, 3 CFR 142 (1978)).

In consideration of the foregoing, the Commission amends Part 292 of Chapter I, Title 18, Code of Federal Regulations, as set forth below, effective January 28, 1981.

By the Commission.

Kenneth F. Plumb,
Secretary.

Section 292.206 is amended by adding a new paragraph (c) to read as follows:

§ 292.206 Ownership criteria.

* * * * *

(c) *Exceptions.* For purposes of this section a company shall not be considered to be an "electric utility" company if it:

(1) Is a subsidiary of an electric utility holding company which is exempt by rule or order adopted or issued pursuant to section 3(a)(3) or 3(a)(5) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79c(a)(3), 79c(a)(5); or

(2) Is declared not to be an electric utility company by rule or order of the Securities and Exchange Commission pursuant to section 2(a)(3)(A) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(3)(A).

[FR Doc. 81-4337 Filed 2-5-81; 8:45 am]
BILLING CODE 6450-85-M

DEPARTMENT OF LABOR

Employment and Training Administration

Office of the Secretary

Employment Standards Administration

Wage and Hour Division

Occupational Safety and Health Administration

Pension and Welfare Benefits Program Office

Office of Federal Contract Compliance Programs

20 CFR Parts 655, 676, 677, 678 and 679

29 CFR Parts 1, 5, 6, 1903, 1910, 1952, 1955, 1990, 2520, 2550 and 2560

41 CFR Part 60-1

Notice of Deferral of Effective Dates of Regulations

AGENCY: Department of Labor.

ACTION: Notice of deferral of effective dates of regulations.

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

EFFECTIVE DATE: January 29, 1981.

ADDRESS: Gail Lively, Director, Executive Secretariat, Room S2519, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington D.C. 20210.

FOR FURTHER INFORMATION CONTACT: The names and telephone numbers of the contact persons are set forth in the Supplementary Information.

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

Rule	Agency	Subject	Date and page of publication in the FEDERAL REGISTER	Original effective date
1. 20 CFR Part 655	ETA	Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adverse Effect Wage Rate Methodology.	Jan. 16, 1981, 46 FR 4568.	Feb. 17, 1981.
2. 29 CFR Part 1	ESA W/H Div.	Procedures for Predetermination of Wage Rates.	Jan. 16, 1981, 46 FR 4306.	Feb. 17, 1981.
3. 29 CFR Part 5	ESA W/H Div.	Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).	Jan. 16, 1981, 46 FR 4380.	Feb. 17, 1981.
4. 29 CFR Part 6	SECY	Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally Assisted Construction Contracts and Federal Service Contracts.	Jan. 16, 1981, 46 FR 4398.	Feb. 17, 1981.
5. 29 CFR Parts 1952 and 1955	OSHA	Proposed Withdrawal of the Indiana State Plan.	Jan. 16, 1981, 46 FR 3919.	Feb. 17,1981.
6. 41 CFR Part 60-1	OFCCP	Payment of Membership Fees and Other Expenses to Private Organizations.	Jan. 16, 1981, 46 FR 3892.	Feb. 17,1981.
7. 29 CFR Part 1903	OSHA	Walkaround Compensation.	Jan. 16, 1981, 45 FR 3652.	Feb. 17, 1981.
8. 29 CFR Part 1990	OSHA	Identification, Classification and Regulation of Potential Occupational Carcinogens; Conforming Deletions.	Jan. 19, 1981, 46 FR 4889.	Feb. 18, 1981.
9. 29 CFR 2520.102-5	PWBP	Limited Relief From Reporting, Disclosure, and Claims Procedure Requirements With Respect to Welfare Plans Offering Membership in a Qualified Health Maintenance Organization as an Option.	Jan. 21, 1981, 46 FR 5882.	Feb. 20, 1981.
10. 29 CFR 2520.104-20	PWBP	Limited Relief From Reporting, Disclosure, and Claims Procedure Requirements With Respect to Welfare Plans Offering Membership in a Qualified Health Maintenance Organization as an Option.	Jan. 21, 1981, 46 FR 5882.	Feb. 20, 1981.
11. 29 CFR 2520.104-44	PWBP	Same as items 9 and 10.	Jan. 21, 1981, 46 FR 5882.	Feb. 20, 1981.
12. 29 CFR 2560.503-1	PWBP	Same as items 9 and 10.	Jan. 21, 1981, 46 FR 5882.	Feb. 20, 1981.
13. 29 CFR Part 1910	OSHA	Occupational Exposure to Lead; Supplemental Statement of Reasons; and Amendment of Standard.	Jan. 21, 1981, 46 FR 6134.	Feb. 20, 1981.
14. 29 CFR 2550.414c-3	PWBP	Regulations Relating to Certain Loans, Leases and Dispositions of Property Prior to June 30, 1984.	Jan. 23, 1981, 46 FR 7320.	Feb. 23, 1981.
15. 20 CFR Parts 676, 677, 678, and 679.	ETA	Comprehensive Employment and Training Act Regulations; Amendments to Administrative Provisions.	Jan. 23, 1981, 46 FR 7822.	Feb. 23, 1981.
16. 20 CFR Part 676	ETA	Comprehensive Employment and Training Act.	Jan. 23, 1981, 46 FR 7832.	Feb. 23, 1981.

Guide to Agency Abbreviation Code

ETA—Employment and Training Administration.
ESA—W/H Div.—Employment Standards Administration—Wage and Hour Division.
OSHA—Occupational Safety and Health Administration.
PWBP—Pension and Welfare Benefits Program Office.
OFCCP—Office of Federal Contract Compliance Programs.
SECY—Office the Secretary.

FOR FURTHER INFORMATION CONTACT:

Agency and Contact

1. Employment and Training Administration (ETA)—Robert Anderson, Telephone: (202) 376-6254
2. Employment Standards Administration, Wage/Hour Division (ESA-W/H Div.)—Henry T. White, Jr., Telephone: (202) 523-8305
3. Occupational Safety and Health Administration (OSHA)—James F. Foster, Telephone: (202) 523-8151
4. Pension and Welfare Benefit Programs Office (PWBP)—Robert Doyle, Telephone: (202) 523-8684 or Doris Jacobs, Telephone: (202) 523-6844
5. Office of Federal Contract Compliance Programs (OFCCP)—James W. Cisco, Telephone: (202) 523-9426
6. Office of the Secretary—Gail V. Coleman, Telephone: (202) 523-8268.

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

Signed at Washington, D.C. this 3rd day of February, 1981.

Alfred M. Zuck,

Acting Secretary of Labor.

[FR Doc. 81-4344 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[EE-2-79]

Foundation and Similar Exise Taxes; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document corrects a typographical error in the publication of Treasury Decision 7718 which concerned the treatment of certain elderly care facilities.

EFFECTIVE DATE: This correction is effective as of the same date as Treasury Decision 7718, which is December 31, 1969.

FOR FURTHER INFORMATION CONTACT:

Charles K. Kerby of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3422.

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1980, the Federal Register published Treasury Decision 7718 (45 FR 58520). The Treasury decision adopted final regulations under section 4942(j)(6) of the Internal Revenue Code of 1954, concerning the treatment of private foundations that maintain certain elderly care facilities.

Need for Correction

A typographical error was made in the amendatory language of paragraph 2 of the Treasury decision. This document corrects the error by changing the section of the regulations being amended from "53.4942(b)-(1)" to "53.4942(b)-1(a)."

Drafting Information

The principal author of this correction is Charles K. Kerby of the Employee Plans and Exempt Organizations Divison, Office of Chief Counsel, Internal Revenue Service.

Correction of Treasury Decision

Accordingly, FR Doc. 80-27080 (45 FR 58520) is amended as follows:
In the amendatory language of Par. 2 on page 58520, the section of the regulations being amended is changed from "53.4942(b)-(1)" to "53.4942(b)-1(a)."

George H. Jelly,
Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 81-4442 Filed 2-5-81; 8:45 am]
BILLING CODE 4830-01-M

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26 CFR Parts 1, 5, 7, 10 and 55

[T.D. 7767]

Real Estate Investment Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the taxation of real estate investment trusts ("REITs"). Changes to the applicable tax law were made by the Tax Reform Act of 1976 and by the Act of January 3, 1975. All REITs and their shareholders will be affected by these regulations.

DATES: In general, these changes apply to taxable years beginning after October 4, 1976, and, in some cases, to taxable years ending after that date or to determinations occurring after that date. However, the changes made by the Act of January 3, 1975, apply to certain property acquired after December 31, 1973. An excise tax imposed on certain REITs applies to taxable years beginning after December 31, 1979. Moreover, a REIT may apply to the Commissioner before May 8, 1981, to revoke an election for pre-1976 years relating to property held for sale to customers.

FOR FURTHER INFORMATION CONTACT: Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention CC:LR:T (202-566-3487, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On July 7, 1978, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 856, 857, 858, 859, and 860 of the Internal Revenue Code of 1954, relating to REITs (43 FR 29317). That document also proposed amendments to the regulations under Code sections 46, 50B, 164, 172, 275, 316, 381, 441, 442, and 512. Moreover, that document contained a new proposed Part 55 of Title 26 of the Code of Federal Regulations. The new Part 55 consists of procedural and administrative regulations relating to the excise tax imposed on certain REITs by section 4981 of the Code. The proposed amendments published on July 7, 1978, were corrected by a correction notice published in the **Federal Register** for July 25, 1978 (43 FR 32150). These amendments were proposed to conform the regulations to section 1402(b) and Title XVI of the Tax Reform Act of 1976 (Pub. L. 94-455; 90 Stat. 1731, 1742) and section 6 of Pub. L. 93-625 (88 Stat. 2112), and also to revise certain provisions of the existing regulations.

A public hearing was held on December 20, 1978. After consideration of all comments regarding the proposed amendments, these amendments are adopted as revised by this Treasury decision.

Revenue Act of 1978

A new § 1.865-0 states that the regulations adopted by this document do not reflect the amendments made by the Revenue Act of 1978 (Pub. L. 95-600). However, two sentences in § 1.856-6(g) (relating to an extension of the grace period for foreclosure property) now substitute a general reference to section 856(e)(3) of the Code in place of what was, in effect, a restatement in the proposed regulations of certain specific statutory language that was subsequently amended by the 1978 Act. The two sentences do not effect any substantive change from the rule as proposed.

Also, § 10.3 of the regulations, (temporary regulations relating to an extension of the 2-year grace period with respect to foreclosure property) has been recently amended to clarify the effective date of the 1978 Act amendments. See T.D. 7668, published at 40 FR 6378 (January 28, 1980). Since § 10.3 is withdrawn by this document, the special rules in that section that clarify the effective date of the 1978 Act amendments are preserved by adopting them as a new temporary regulation. This new temporary regulation is included in Part 5 of Title 26 of the Code of Federal Regulations (Temporary Income Tax Regulations under the Revenue Act of 1978) as a new § 5.856-1, since it would be inappropriate to include it in Part 10 (Temporary Income Tax Regulations under Pub. L. 96-325).

Public Law 96-595

Public Law 96-595 (94 Stat. 3464), enacted on December 24, 1980, amended section 172(b)(1)(E) of the Code. This amendment revised the rules for determining net operating loss carryovers of taxpayers that are REITs in the year of the loss or were REITs in a taxable year preceding the loss year. The proposed regulations (§ 1.172-12(a)) under section 172(b)(1)(E), as in effect before amendment, specified the taxable years to which the loss of a REIT (or former REIT) could be carried. Because of the changes made by Pub. L. 96-595, the final regulations reserve the paragraph specifying the taxable years to which the loss may be carried and delete another paragraph relating to a transitional rule that is not longer applicable.

Principal Changes From the Proposed Regulations

The principal changes from the proposed regulations are based on public comments. These changes relate to rents from real property, interest, foreclosure property, reasonable cause for failure to meet certain requirements, and the definition of a "successor" corporation.

Rents From Real Property

Section 1.856-4 (b) (3) disqualifies rent which depends on the income or profits of any person. The final regulations remove a flat prohibition on the renegotiation of a change in the percentage during the term of a percentage rental lease (including any renewal period). As adopted, the restriction only applies if the effect of the renegotiation is to base the rent on income or profits. The final regulations also make clear that an amount consisting, in whole or in part, of one or more percentages of the lessee's receipts or sales in excess of one or more determinable dollar amounts may qualify as "rents from real property".

The existing regulations provide that contingent rent may be based on a fixed percentage of receipts or sales (whether or not receipts or sales are adjusted for returned merchandise, or Federal, State, or local taxes). One commentator asked that it be made clear that the enumerated adjustments are not exclusive, and examples of other adjustments (such as bad debts) be added. It is believed, however, that this question is best addressed outside the regulations. For example, Rev. Rul. 74-134, 1974-1 C.B. 170, holds that certain adjustments to the tenant's gross sales did not disqualify the REIT's rent that

was based on a fixed percentage of such gross sales.

Also, the final regulations (§ 1.856–4 (b) (1)) provide that the submetering of certain utilities and the performance of certain cleaning services may qualify as "customary services" if they meet certain other criteria.

Interest

Interest income is apportioned between qualifying and nonqualifying income where a mortgage covers both real and personal property. The regulations, as adopted, provide two additional exceptions for cases where it would not be appropriate to apply the apportionment rules as proposed. These exceptions apply where the REIT commits itself to provide long-term financing following completion of construction, or where the mortgage on the real property is given as additional security (or as a substitute for other security) for the loan after the REIT's loan commitment is binding.

Foreclosure Property

The final regulations contain several changes in the proposed rules relating to foreclosure property.

Section 1.856–6 (b) (3) provides that property is not eligible for the election to be treated as foreclosure property if the loan or lease was made or entered into when the REIT knew or had reason to know that default would occur (or with an intent to evict or foreclose). An additional sentence in the final regulations applies in a "workout" situation, and would not bar eligibility merely because additional credit is extended or an existing investment is restructured to avoid foreclosure or default.

Section 1.856–6 (c) (1), as proposed, provided that an election to treat property as foreclosure property must include all eligible real property acquired by the REIT on foreclosure of a particular indebtedness or a particular lease. This rule is modified in the final regulations to provide an exception if properties securing the same loan (or under the same lease) are acquired in different taxable years. In this case, the REIT may make a separate election for such properties acquired in the same taxable year, and may (but is not required in certain cases to) make an election for the properties acquired in the other taxable year.

The regulations, as adopted (§ 1.857–3 (e)) also provide rules for apportioning the deduction for interest between foreclosure property and other property for purposes of determining "net income from foreclosure property". These rules are mandatory for taxable years ending after February 6, 1981.

Two changes in the foreclosure property rules relate to the status of the taxpayer. In general, a taxpayer may make an election only if it is a qualified REIT for the taxable year in which the acquisition occurs. Nevertheless, a nonqualified REIT may make the election if it establishes to the appropriate district director's satisfaction that its failure to be a qualified REIT was due to reasonable cause and not due to willful neglect. The final regulations add a similar exception for a nonqualified taxpayer seeking to extend the general 2-year foreclosure property grace period. The regulations, as adopted (§ 1.856–6 (c) (4)), also provide that property will not lose its status as foreclosure property solely because the taxpayer is not a qualified REIT for a taxable year subsequent to the year the election is made.

The regulations (§ 1.856–6(e) (5)), as adopted, also clarify the rules relating to what constitutes permissible repair and maintenance as opposed to impermissible construction of foreclosure property.

Reasonable Cause

The regulations (§ 1.856–7(c)), as adopted, revise and clarify the rules relating to reliance on an opinion as reasonable cause under section 856(c) (7) of the Code for failure to meet the percentage-of-income requirements of Code section 856(c) (2) and (3) or to avoid certain other sanctions. As proposed, the regulation provided that the good faith reliance on a reasoned, written opinion of legal counsel (including house counsel) as to the characterization for purposes of section 856 of gross income to be derived (or being derived) from a particular transaction (or series of transactions) generally will constitute "reasonable cause" in a case where the trust fails to meet the percentage-of-income requirements and income from the transaction contributes to the failure. Good faith reliance exists where the trust has no reason to believe that the opinion of counsel is incorrect and where the trust has concluded that the income from the transaction, in the context of the trust's overall portfolio, reasonably cannot be expected to cause a source-of-income requirement to be failed.

Commentators suggested that the regulation provide that REITs could rely on opinions from certified public accountants and others authorized to practice before the Service as reasonable cause to the same extent that it could rely on an opinion of counsel. Another commentator asked that house counsel of the REIT's advisor be specifically included.

It has been decided not to prescribe a specific list of persons whose opinions may constitute reasonable cause. Rather, the regulation, as adopted, provides that the opinion must be rendered by a tax advisor (including house counsel) whose opinion would be relied on by a person exercising ordinary business care and prudence in the circumstances of the particular transaction. This rule is in keeping with the general overall requirement that the REIT must exercise ordinary business care and prudence in attempting to satisfy the requirements of sections 856 (c) (2) and (3) in order to have reasonable cause for failure to do so.

The final regulations also make clear that the opinion may relate to a standard operating procedure or standard form of transaction if such form or procedure is in fact used or followed.

The regulations, as adopted, also delete the term "good faith reliance" and substitute "reasonable reliance" to better describe the substantive rule.

Successor Corporation

If an election to be a REIT has been revlked or terminated, the taxpayer is ineligible to make a new REIT election for the next four taxable years. Under § 1.856–8(c) (2), a successor exists if there is common ownership of 50 percent or more of the shares between the predecessor and successor entities. Because there may be more than one class of shares, the final regulations define share ownership in terms of value.

Principal Suggested Changes Not Adopted

The principal suggestions which were not adopted relate to certain options, to foreclosure property held for sale to customers, to an effective date for rules relating to rents, and to the effect of the net operating loss on the amount of capital gain dividends which may be paid.

Options

Several commentators objected to § 1.856–2(c) (2) of the proposed regulations which does not treat income from lapse of certain options as "qualified income" for purposes of the 75–percent and 90–percent gross income tests. Involved is income recognized by a REIT upon the lapse of an option it wrote which gave the holder the right to acquire land, improvements, or a leasehold of either.

The commentators argue that the final regulations should provide that whether income resulting from the lapse of such an option is "qualified income" depends on the character of the property to which the option in question relates, in a manner similar to the present test under section 1234 of the Code. The commentators point out that, if the option is exercised, any income realized is "qualified income". They argue that to treat income from lapse of an option in a different manner is an artificial distinction which would make it impossible for a REIT to know, at the time of writing an option, whether any income realized would be "qualified".

The commentators also cite the Report of the Committee on Ways and Means on H.R. 12224 (H. Rep. No. 94–1192, 94th Cong., 2d Sess. 1 (1976), 1976–3 C.B. (Vol. 3) 19). This Ways and Means Committee report was adopted by reference in the conference report on the 1976 Act (S. Rep. No. 94–1236, 94th Cong., 2d Sess. 544 (1976), 1976–3 C.B. (Vol. 3) 948). The Ways and Means Committee report, in discussing the amendments to section 1234, makes clear at page 10 the intent that income derived by regulated investment companies upon the lapse of "puts" and "calls" is to be treated as "qualifying" income for purposes of the 90-percent "source of income" requirement of section 851(b)(2). The commentators urge that the same rules should apply to the analogous REIT provisions of section 856.

Because there is no clear indication of congressional intent to the contrary, the final regulations, for REIT purposes, follow the general rule that income from the lapse of an option is not gain from the sale or other disposition of either the option itself or the underlying asset. To effect a different result in a particular case, Congress has made specific statutory exceptions to this general rule. Thus, section 1234 (relating to options to buy or sell stock, securities, commodities and commodities futures) was amended by section 2136 of the 1976 Act. Section 512(b)(5), which excludes gains from the sale or other disposition of certain property from unrelated business taxable income, was specifically amended by Pub. L. 94–396 (90 Stat. 1201) to also exclude gain from the lapse of an option to sell certain securities. Moreover, as noted by the commentators, the Committee on Ways and Means has expressed its intention that gain on the lapse of an option to sell stock or securities should be considered qualified income for the 90-percent source-of-income requirement of a regulated investment company.

Foreclosure Property Held for Sale to Customers

Section 856(e)(4)(C) provides that property ceases to be foreclosure property if, after the 90th day following its acquisition, it is used in a trade or business conducted by the REIT, other than through an independent contractor from whom the REIT does not derive or receive any income. Section 1.856–6(f)(2), as proposed, provides that foreclosure property held by the REIT primarily for sale to customers in the ordinary course of a trade or business is considered to be property used in a trade or business under section 856(e)(4)(C). Accordingly, foreclosure property held by a REIT for such a sale after the appropriate 90 days must be sold through an independent contractor, failing which the property will cease to be foreclosure property and the REIT will be faced with "prohibited transactions" under section 857(b)(6). The temporary regulation relating to foreclosure property (26 CFR 10.1(b)(3)) is identical.

The commentators disagree with this position, citing the Senate Finance Committee Report on Pub. L. 93–635. In discussing the use of the foreclosure property in a trade or business, that report refers to the need to use an independent contractor in the operation of a business acquired through foreclosure, such as a hotel (S. Rep. No. 93–1357, 93d Cong., 2d Sess. 16 (1975), 1975–1 C.B. 526). The commentators distinguish between the operation of property and its sale.

In addition, the commentators argue that because of the difficulty in determining if property is held for sale to customers, counsel to some REIT's advise the use of an independent contractor for virtually every sale of foreclosure property.

Alternatively, the commentators urge that if the "independent contractor" requirement for sales of foreclosure property is retained in some form, the regulations should provide a "reasonable cause" rule. Thus, foreclosure property status would not be lost if a REIT sells foreclosure property directly and has reasonable cause to believe that it is not holding the property for sale to customers but is engaged in disposing of an investment property, even if it is ultimately determined that the property was held for sale to customers. This "reasonable cause" rule, say the commentators, could be limited by excluding from its coverage the direct disposition by a REIT of individual condominium units or subdivided land parcels, which are the type of direct sales by a REIT which Congress clearly intended to preclude. (See the legislative history of the "prohibited transactions" tax under section 857(b)(6) of the Code.)

Notwithstanding these objections, the rule requiring the independent contractor is retained in the final regulations. It is not believed that Congress intended the requirement of an independent contractor to be limited to an ongoing business that is acquired on foreclosure. The regulation is in accord with the general theory that a REIT is intended to be a passive investment medium. Furthermore, to adopt a reasonable cause test would be tantamount to exempting property from the rules of section 856(e)(4)(C) if a favorable opinion had been received with respect to its character in the hands of the REIT.

Section 857(b)(6)(C), enacted by the Revenue Act of 1978, provides a "safe harbor" from the prohibited transaction tax which may, in a particular case, ensure that such tax will not apply, notwithstanding that foreclosure property status is lost because the sale is not through an independent contractor.

Effective Date of Certain Rules Relating to Rents From Real Property

Based on a statutory amendment to Code section 856(d)(1) by section 1604(b) of the 1976 Act, § 1.856–4(b), as proposed, provided that for taxable years beginning after October 4, 1976, the term "rents from real property" includes charges for services customarily furnished or rendered in connection with the rental of real property, whether or not the charges are separately stated. (Prior to the 1976 Act, the regulations provided that if a separate charge is made for customary services, the amount of the charge must be received and retained by an independent contractor and not by the REIT.) Commentators, citing legislative history, urge that the change in the "separate charge" rule should be retroactive to pre-1976 years. The change is explained in the report of the Senate Finance Committee (S. Rep. No. 94–938, 94th Cong., 2d Sess. 473 (1976), 1976–3 C.B. (Vol. 3) 511). It states that the income tax regulations take the position that the amount of the charge must be received and retained by the independent contractor (and not by the REIT), and that this restriction on separate charges for customarily furnished services often does not follow normal commercial practice.

However, section 1608(d)(1) of the 1976 Act provides that this amendment to section 856(d) of the Code is applicable to taxable years beginning

after October 4, 1976. Moreover, the report of the Senate Finance Committee does not clearly evidence an intent to make the amendment retroactive. Accordingly, the final regulations retain the effective date as proposed.

Capital Gains Dividends and Net Operating Loss Carryovers

Several commentators suggest there is a conflict between sections 172(d)(7)(B) and 857(b)(3)(C). Under section 172(d)(7)(B), a net operating loss carryover to a taxable year is, in effect, offset against REIT taxable income as first reduced by the dividends paid deduction. Thus, generally to the extent of the dividends paid deduction in the current year, a net operating loss carryover will not be used but will be available as a carryover to a subsequent year. On the other hand, the last sentence of section 857(b)(3)(C) provides that, for purposes of determining the amount of capital gain dividends which may be paid, the REIT's net capital gain does not exceed REIT taxable income (determined without the deduction for dividends paid). According to the commentators, in computing a REIT's net capital gain, this latter sentence seems to require application of the net operating loss carryover as a deduction against REIT taxable income determined before the dividends paid deduction.

This would have the effect of reducing the amount of REIT taxable income solely for the purpose of determining the amount of the capital gain dividend, notwithstanding that the net operating loss carryover, to the extent of the dividends paid deduction, would not have been used in determining the balance of the loss available as a carryover to subsequent years. The commentators urge that the regulations resolve this suggested conflict by providing, in effect, that the net operating loss deduction is not taken into account in determining the limitation on the amount of the capital gains dividends which may be distributed.

The commentators' suggestion was not adopted because there is no conflict. The last sentence of section 857(b)(3)(E) was added by section 1607(b) of the 1976 Act in connection with a new alternative tax computation for REITs. The effect of that sentence is to prevent a REIT from paying a capital gain dividend out of accumulated earnings and profits in a year when the REIT has a net capital gain and an ordinary loss. There is no evidence that Congress intended a different result to obtain depending on whether the "ordinary loss" consists of deductions paid or accrued in the current year or of a loss carryover to the current year.

It should be noted that if the REIT pays a capital gain dividend as limited by the last sentence of section 857(b)(3)(C) and also pays an ordinary dividend, both dividends are taken into account in determining how much of the net operating loss carryover is available as a carryover to a subsequent taxable year.

These points are clarified in the regulations as adopted, and are illustrated in a new example in § 1.172–5.

Construction on Foreclosure Property

With respect to foreclosure property, § 1.856–6(e)(4), as proposed, provides that where a REIT acquires a housing subdivision in which some of the houses are more than 10% complete and others are not, the REIT may not complete construction of houses which were only 10% (or less) complete, nor may the REIT begin construction of other houses planned for the subdivision on which construction has not begun. Two commentators suggest that a more realistic rule would apply the 10% completion test to the entire subdivision, which would avoid potential marketing problems. They further suggest that if a subdivision is to be built in phases, it would be appropriate to preclude the REIT from commencing construction on a phase which had not been started at the time of foreclosure. However, the suggestion was not adopted because the rule is based on S. Rep. No. 93–1357, 93d Cong., 2d Sess., 16 (1975), 1975–1 C.B. 526), and is consistent with legislative intent.

REIT as a Partner

One commentator suggested that the final regulations revise § 1.856–3(g), relating to the determination of the qualifying income and assets of a REIT that is a partner in a partnership, notwithstanding that the notice of proposed rulemaking published on July 7, 1978, contained no proposed amendments to that section. However, it is believed that amendments in the nature of those suggested by the commentator, if adopted, should be preceded by a notice of proposed rulemaking. Accordingly, no amendments are made to that section by this document.

Deletion of Temporary Regulations

The following sections of Title 26 of the Code of Federal Regulations are hereby deleted: Sections 10.1 (election by real estate investment trust to treat certain property as foreclosure property) and 10.3 (extension of 2-year grace period with respect to foreclosure property held by a real estate investment trust) of Part 10 and section 7.856(g)–1 (special rule for real estate investment trusts) of Part 7. These sections provided temporary regulations for real estate investment trusts that are no longer required because of the regulations adopted by this document.

Drafting Information

The principal author of this regulation is Charles M. Whedbee of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 55, Excise Tax on Certain Real Estate Investment Trusts, is added to Title 26 of the Code of Federal Regulations and the amendments to Parts 1 and 55 of such Title 26 published with notice of proposed rulemaking in the **Federal Register** for July 7, 1978 (43 FR 29317), are adopted, subject to the following changes.

Paragraph 1. Paragraph (a)(1)(iv), (viii), and (ix) of § 1.172–4, as amended by paragraph 8 of the notice of proposed rulemaking, is amended by striking out "§ 1.172–12(a)(2)" each place it appears and inserting in lieu thereof "§ 1.172–12(a)".

Par. 1a. Section 1.172–5(a)(5), as added by paragraph 9 of the notice of proposed rulemaking, is amended as follows:

1. The fourth sentence is amended by striking out "example" and inserting in lieu thereof "examples".

2. The example immediately following the fourth sentence is redesignated "Example (1)." instead of "Example.".

3. The third sentence of Example (1), as so redesignated, is amended by inserting ", all of which consists of ordinary income" after "of $150,000".

4. A new Example (2) is added at the end thereof, to read as follows:

§ 1.172–5 Taxable income which is subtracted from net operating loss to determining carryback or carryover.

(a) *Taxable year subject to the Internal Revenue Code of 1954.* * * *

(5) *Qualified real estate investment trust.* * * *

Example (2). (i) Assume the same facts as in example (1), except that the $150,000 of real estate investment trust taxable income (determined without the net operating loss deduction or the dividends paid deduction) consists of $80,000 of ordinary income and

$70,000 of net capital gain. The amount of capital gain dividends which may be paid for 1978 is limited to $50,000, that is, the amount of the real estate investment trust taxable income for 1978, determined by taking into account the net operating loss deduction for the taxable year, but not the deduction for dividends paid ($150,000 minus $100,000). See § 1.857–6(e)(1)(ii).

(ii) X designated $50,000 of the $120,000 of dividends paid as capital gains dividends (as defined in section 857(b)(3)(C) and § 1.857–6(e)). Thus, $70,000 is an ordinary dividend. Since both ordinary dividends and capital gains dividends are taken into account in computing the deduction for dividends paid under section 857(b)(2)(B), the result will be the same as in example (1); that is, the portion of the 1977 net operating loss available as a carryover to 1979 and subsequent years is $70,000.

* * * * *

Par. 2. Section 1.172–12, as added by paragraph 10 of the notice of proposed rulemaking, is amended as follows:

1. Paragraph (a)(1), (2), (3), and (4) is deleted and a new paragraph (a)(1) is inserted in lieu thereof to read as set forth below.

2. Paragraph (a)(5) is redesignated as paragraph (a)(2) and is amended by striking out "the last sentence of" in the third sentence.

3. Paragraph (c) is deleted.

4. Paragraph (d) is redesignated as paragraph (c) and is amended by adding a new sentence at the end thereof, to read as set forth below.

§ 1.172–12 Net operating losses of real estate investment trusts.

(a) *Taxable years to which a loss may be carried.* (1) [reserved]

* * * * *

(c) *Cross references.* * * * See § 1.857–2(a)(5), which provides that for a taxable year ending before October 5, 1976, the net operating loss deduction is not allowed in computing the real estate investment trust taxable income of a qualified real estate investment trust.

Par. 3. Example (7), as added at the end of § 1.316–1(e) by paragraph 16 of the notice of proposed rulemaking, is amended by striking out "$48,000" in the first sentence and inserting in lieu thereof, "$46,000".

Par. 4. Section 1.381(c)(25)–1, as added by paragraph 18 of the notice of proposed rulemaking, is amended by striking out "857(b) or 1201(a)" in paragraph (a)(2) and inserting in lieu thereof "857(b)(1), 857(b)(3)(A), or 1201(a)", and by striking out "in duplicate" in the first sentence of paragraph (c).

Par. 5. Paragraph 21 of the notice of proposed rulemaking is revised to read as follows:

Par. 21. Section 1.443–1(e)(5) is amended by striking out "857(b)(2)(D)" and inserting in lieu thereof "857(b)(2)(c)".

Par. 6. Paragraph 24 of the notice of proposed rulemaking is revised to read as follows:

Par. 24. Section 1.856 is deleted and a new § 1.856–0 is added to read as follows:

§ 1.856–0 Revenue Act of 1978 amendments not included.

The regulations under part II of subchapter M of the Code do not reflect the amendments made by the Revenue Act of 1978.

Par. 7. Section 1.856–2(c)(2), as revised by paragraph 26 of the notice of proposed rulemaking, is amended by striking out "section 85(c)(6)(C)" in the first sentence and inserting in lieu thereof "section 856(c)(6)(C)".

Par. 8. Section 1.856–4, as revised by paragraph 28 of the notice of proposed rulemaking, is revised as follows:

1. Paragraph (b)(1) is revised by deleting the third, fourth and fifth sentences, and inserting in lieu thereof 3 new sentences, to read as set forth below.

2. Paragraph (b)(3) is amended by striking out "renewal periods of the lease)" in the third sentence and inserting in lieu thereof "renewal periods of the lease) in a manner which has the effect of basing the rent on income or profits", and by striking out "subleasee" in the fourth sentence and inserting in lieu thereof "sublessee".

3. Paragraph (b)(3) is further amended by deleting the ninth sentence and inserting three new sentences in lieu thereof, to read as set forth below, and by inserting "and 10 percent of such gross receipts in excess of $10,000 x" immediately after "$5,000 x" in the second sentence of the example.

4. Paragraph (b)(5) is amended by striking out "(ii) *Trustee functions.* The trustees" and inserting in lieu thereof "(ii) *Trustee or director functions.* The trustees."

§ 1.856–4 Rents from real property.

* * * * *

(b) *Amounts specifically included or excluded.*—(1) *Charges for customary services.* * * * The furnishing of water, heat, light, and air-conditioning, the cleaning of windows, public entrances, exits, and lobbies, the performance of general maintenance and of janitorial and cleaning services, the collection of trash, and the furnishing of elevator services, telephone answering services, incidental storage space, laundry equipment, watchman or guard services, parking facilities, and swimming pool facilities are examples of services which are customarily furnished to the tenants of a particular class of buildings in many geographic marketing areas. Where it is customary, in a particular geographic marketing area to furnish electricity or other utilities to tenants in buildings of a particular class, the submetering of such utilities to tenants in such buildings will be considered a customary service. To qualify as a service customarily furnished, the service must be furnished or rendered to the tenants of the real estate investments trust or, primarily for the convenience or benefit of the tenant, to the guests, customers, or subtenants of the tenant. * * *

* * * * *

(3) *Disqualification of rent which depends on income or profits of any person.* * * * An amount received or accrued as rent for the taxable year which consists, in whole or in part, of one or more percentages of the lessee's receipts or sales in excess of determinable dollar amounts may qualify as "rents from real property", but only if two conditions exist. First, the determinable amounts must not depend in whole or in part on the income or profits of the lessee. Second, the percentages and, in the case of leases entered into after July 7, 1978, the determinable amounts, must be fixed at the time the lease is entered into and a change in percentages and determinable amounts is not renegotiated during the term of the lease (including any renewal periods of the lease) in a manner which has the effect of basing rent on income or profits. * * *

* * * * *

Par. 9. Section 1.856–5 (c), as added by paragraph 29 of the notice of proposed rulemaking, is revised to read as follows:

§ 1.856–5 Interest.

* * * * *

(c) *Apportionment of interest*—(1) *In general.* Where a mortgage covers both real property and other property, an apportionment of the interest income must be made for purposes of the 75-percent requirement of section 856 (c)(3). For purposes of the 75-percent requirement, the apportionment shall be made as follows:

(i) If the loan value of the real property is equal to or exceeds the amount of the loan, then the entire interest income shall be apportioned to the real property.

(ii) If the amount of the loan exceeds the loan value of the real property, then the interest income apportioned to the real property is an amount equal to the interest income multiplied by a fraction, the numerator of which is the loan value of the real property, and the denominator of which is the amount of the loan. The interest income apportioned to the other property is an amount equal to the excess of the total interest income over the interest income apportioned to the real property.

(2) *Loan value.* For purposes of this paragraph, the loan value of the real property is the fair market value of the property, determined as of the date on which the commitment by the trust to make the loan becomes binding on the trust. In the case of a loan purchased by the trust, the loan value of the real property is the fair market value of the property, determined as of the date on which the commitment by the trust to purchase the loan becomes binding on the trust. However, in the case of a construction

loan or other loan made for purposes of improving or developing real property, the loan value of the real property is the fair market value of the land plus the reasonably estimated cost of the improvement or developments (other than personal property) which will secure the loan and which are to be constructed from the proceeds of the loan. The fair market value of the land and the reasonably estimated cost of improvements or developments shall be determined as of the date on which a commitment to make the loan becomes binding on the trust. If the trust does not make the construction loan but commits itself to provide long-term financing following completion of construction, the loan value of the real property is determined by using the principles for determining the loan value for a construction loan. Moreover, if the mortgage on the real property is given as additional security (or as a substitute for other security) for the loan after the trust's commitment is binding, the real property loan value is its fair market value when it becomes security for the loan (or, if earlier, when the borrower makes a binding commitment to add or substitute the property as security).

(3) *Amount of loan.* For purposes of this paragraph, the amount of the loan means the highest principal amount of the loan outstanding during the taxable year.

* * * * *

Par. 10. Section 1.865–6, as added by paragraph 29 of the notice of proposed rulemaking, is revised as follows:

1. Paragraph (b) (2) and (3) is revised to read as set forth below.

2. Paragraph (c)(1) is revised to read as set forth below.

3. Paragraph (c)(4) is amended by striking out "advice of counsel" in the third sentence and inserting in lieu thereof "expert advice", and by deleting the last sentence and inserting in lieu thereof two new sentences, to read as set forth below.

4. So much of paragraph (d)(1) as precedes "(i) Enters into a lease with respect to" is revised to read as set forth below.

5. Paragraph (d)(1) is further amended by striking out "acquires a shopping center" in the second sentence, and inserting in lieu thereof, "acquires, in a particular taxable year, a shopping center".

6. Paragraph (e)(1) is amended by striking out "Under section 856(e)(4)(B) property ceases to be foreclosure property on the first day (occurring on or after the day on which the trust acquired the property)" in the first sentence and inserting in lieu thereof "Under section 856(e)(4)(B), all real property (and any incidental personal property) for which a particular election has been made (see paragraph (c)(1) of this section) shall cease to be foreclosure property on the first day (occurring on or after the day on which the trust acquired the property)".

7. Paragraph (e)(3) is amended by striking out "The preceding sentence applies" in the sixth sentence and inserting in lieu thereof "Subdivision (ii) of the preceding sentence applies".

8. Paragraph (e)(5) is revised to read as set forth below.

9. Paragraph (f)(1) is revised to read as set forth below.

10. Paragraph (g)(1) is amended by striking out the third sentence and inserting a new sentence in lieu thereof to read as set forth below.

11. Paragraph (g)(5) is amended by striking out "if the trust previously has been granted two extensions with respect to the property, or" and by adding a new sentence at the end of paragraph (g)(5), to read as set forth below.

12. A new paragraph (g)(7) is added after paragraph (g)(6) to read as set forth below.

§ *1.856–6 Foreclosure property.*

* * * * *

(b) *Property eligible for the election.* * * *

(2) *Personal property.* Personal property (including personal property not subject to a mortgage or lease of the real property) will be considered incident to a particular item of real property if the personal property is used in a trade or business conducted on the property or the use of the personal property is otherwise an ordinary and necessary corollary of the use to which the real property is put. In the case of a hotel, such items as furniture, appliances, linens, china, food, etc. would be examples of incidental personal property. Personal property incident to the real property is eligible for the election even though it is acquired after the real property is acquired or is placed in the building or other improvement in the course of the completion of construction.

(3) *Property with respect to which default is anticipated.* Property is not eligible for the election to be treated as foreclosure property if the loan or lease with respect to which the default occurs (or is imminent) was made or entered into (or the lease or indebtedness was acquired) by the trust with an intent to evict or foreclose, or when the trust knew or had reason to know that default would occur ("improper knowledge"). For purposes of the preceding sentence, a trust will not be considered to have improper knowledge with respect to a particular lease or loan if the lease or loan was made pursuant to a binding commitment entered into by the trust at a time when it did not have improper knowledge. Moreover, if the trust, in an attempt to avoid default or foreclosure, advances additional amounts to the borrower in excess of amounts contemplated in the original loan commitment or modifies the lease or loan, such advance or modification will be considered not to have been made with an intent to evict or foreclose, or with improper knowledge, unless the original loan or lease was entered into with that intent or knowledge.

(c) *Election*—(1) *In general.* (i) An election to treat property as foreclosure property applies to all of the eligible real property acquired in the same taxable year by the trust upon the default (or as a result of the imminence of default) on a particular lease (where the trust is the lessor) or on a particular indebtedness owed to the trust. For example, if a loan made by a trust is secured by two separate tracts of land located in different cities, and in the same taxable year the trust acquires both tracts on foreclosure upon the default (or imminence of default) of the loan, the trust must include both tracts in the election. For a further example, the trust may choose to make a separate election for only one of the tracts if they are acquired in different taxable years or were not security for the same loan. If real property subject to the same election is acquired at different times in the same taxable year, the grace period for a particular property begins when that property is acquired.

(ii) If the trust acquires separate pieces of real property that secure the same indebtedness (or are under the same lease) in different taxable years because the trust delays acquiring one of them until a later taxable year, and the primary purpose for the delay is to include only one of them in an election, then if the trust makes an election for one piece it must also make an election for the other piece. A trust will not be considered to have delayed the acquisition of property for this purpose if there is a legitimate business reason for the delay (such as an attempt to avoid foreclosure by further negotiations with the debtor or lessee).

(iii) All of the eligible personal property incident to the real property must also be included in the election.

* * * * *

(4) *Status of taxpayer.* * * * If a taxpayer makes a valid election to treat property as foreclosure property, the property will not lose its status as foreclosure property solely because the taxpayer is not a qualified real estate investment trust for a subsequent taxable year (including a taxable year which encompasses an extension of the grace period). However, the rules relating to the termination of foreclosure property status in section 856(e)(4) (but not the tax on income from foreclosure property imposed by section 857(b)(4)) apply to the year in which the property is acquired and all subsequent years, even though the taxpayer is not a qualified real estate investment trust for such year.

(d) *Termination of 2-year grace period: subsequent leases—(1) In general.* Under section 856(e)(4)(A), all real property (and any incidental personal property) for which a particular election has been made (see paragraph (c)(1) of this section) shall cease to be foreclosure property on the first day (occurring on or after the day on which the trust acquired the property) on which the trust either—

* * * * *

(e) *Termination of 2-year grace period: completion of construction—** * *

(5) *Repair and maintenance.* Under this paragraph (e), "construction" does not include—

(i) The repair or maintenance of a building or other improvement, such as the replacement of worn or obsolete furniture

and appliances to offset normal wear and tear or obsolescence and the restoration of property required because of damage from fire, storm, vandalism or other casualty,

(ii) The preparation of leased space for a new tenant which does not substantially extend the useful life of the building or other improvement or significantly increase its value, even though, in the case of commercial space, this preparation includes adapting the property to the conduct of a different business, or

(iii) The performing of repair or maintenance described in paragraph (e)(5)(i) of this section after property is acquired that was deferred by the defaulting party and that does not constitute renovation under paragraph (e)(2) of this section.

* * * * *

(f) *Termination of 2-year grace period; use of foreclosure property in a trade or business*—(1) *In general.* Under section 856(e)(4)(C), all real property (and any incidental personal property) for which a particular election has been made (see paragraph (c)(1) of this section) shall cease to be foreclosure property on the first day (occurring more than 90 days after the day on which the trust acquired the property) on which the property is used in a trade or business conducted by the trust, other than a trade or business conducted by the trust through an independent contractor from whom the trust itself does not derive or receive any income. (See section 856(d)(3) for the definition of independent contractor.).

* * * * *

(g) *Extension of 2-year grace period*—(1) *In general.* * * * See section 856(e)(3) (as in effect with respect to the particular extension) for rules relating to the maximum length of an extension, and the number of extensions which may be granted. * * *

* * * * *

(5) *Automatic extension.* * * * Moreover, this subparagraph shall not operate to allow any period of extension that is prohibited by the last sentence of section 856(e)(3) (as in effect with respect to the particular extension).

* * * * *

(7) *Status of taxpayer.* The reference to "real estate investment trust" or "trust" in this paragraph (g) shall be considered to include a taxpayer that is not a qualified real estate investment trust, if the taxpayer establishes to the satisfaction of the district director that its failure to be a qualified real estate investment trust for the taxable year was due to reasonable cause and not due to willful neglect. The principles of § 1.856–7(c) and § 1.856–8(d) (including the principles relating to expert advice) shall apply for determining reasonable cause (and absence of willful neglect) for this purpose.

Par. 11. Section 1.856–7, as added by paragraph 29 of the notice of proposed rulemaking, is amended by revising paragraph (c)(2) to read as set forth below.

§ 1.856–7 Certain corporations, etc., that are considered to meet the gross income requirements.

* * * * *

(c) *Reasonable cause.* * * *

(2) *Expert advice*—(i) *In general.* The reasonable reliance on a reasoned, written opinion as to the characterization for purposes of section 856 of gross income to be derived (or being derived) from a transaction generally constitutes "reasonable cause" if income from that transaction causes the trust to fail to meet the requirements of paragraph (2) or (3) of section 856(c) (or of both paragraphs). The absence of such a reasoned, written opinion with respect to a transaction does not, by itself, give rise to any inference that the failure to meet a percentage of income requirement was without reasonable cause. An opinion as to the character of income from a transaction includes an opinion pertaining to the use of a standard form of transaction or standard operating procedure in a case where such standard form or procedure is in fact used or followed.

(ii) If the opinion indicates that a portion of the income from a transaction will be nonqualified income, the trust must still exercise ordinary business care and prudence with respect to the nonqualified income and detemine that the amount of that income, in the context of its overall portfolio, reasonably cannot be expected to cause a source-of-income requirement to be failed. Reliance on an opinion is not reasonable if the trust has reason to believe that the opinion is incorrect (for example, because the trust withholds facts from the person rendering the opinion).

(iii) *Reasoned written opinion.* For purposes of this subparagraph (2), a written opinion means an opinion, in writing, rendered by a tax advisor (including house counsel) whose opinion would be relied on by a person exercising ordinary business care and prudence in the circumstances of the particular transaction. A written opinion is considered "reasoned" even if it reaches a conclusion which is subsequently determined to be incorrect, so long as the opinion is based on a full disclosure of the factual situation by the real estate investment trust and is addressed to the facts and law which the person rendering the opinion believes to be applicable. However, an opinion is not considered "reasoned" if it does nothing more than recite the facts and express a conclusion.

* * * * *

Par. 12. Section 1.856–8, as added by paragraph 29 of the notice of proposed rulemaking is amended as follows:

1. Paragraph (b) is amended by inserting a new sentence after the first sentence to read as set forth below.

2. The second sentence of paragraph (c)(2) is amended by striking out "indirectly, 50 percent or more of its shares" and inserting in lieu thereof "indirectly, 50 percent or more in value of its outstanding shares", and by striking out "effective, 50 percent or more of the shares", and inserting in lieu thereof, "effective, 50 percent or more in value of the outstanding shares".

3. Paragraph (d) is amended by striking out "advice of counsel" in the fourth sentence and inserting in lieu thereof "expert advice".

§ 1.856–8 Revocation or termination of election.

* * * * *

(b) *Termination of election to be a real estate investment trust.* * * * (This election terminates whether the failure to be a qualified real estate investment trust is intentional or inadvertent.) * * *

* * * * *

Par. 13. Section 1.857–2, as redesignated and revised by paragraph 33 of the notice of proposed rulemaking, is amended by striking out "investment taxable income" in the second sentence of paragraph (a) and inserting in lieu thereof "investment trust taxable income."

Par. 14. Section 1.857–3, as added by paragraph 34 of the notice of proposed rulemaking, is amended by adding new paragraphs (d) and (e) at the end thereof, to read as follows:

§ 1.857–3 Net income from foreclosure property.

* * * * *

(d) *Gross income not subject to tax on foreclosure property.* If the gross income derived from foreclosure property consists of two classes, a deduction directly connected with the production of both classes (including interest attributable to the carrying of the property) must be apportioned between them. The two classes are:

(1) Gross income which is taken into account in computing net income from foreclosure property and

(2) Other income (such as income described in subparagraph (A), (B), (C), (D), or (G) of section 856(c)(3)).

The apportionment may be made on any reasonable basis.

(e) *Allocation and apportionment of interest.* For purposes of determining the amount of interest attributable to the carrying of foreclosure property under paragraph (b) of this section, the following rules apply:

(1) *Deductible interest.* Interest is taken into account under this paragraph (e) only if it is otherwise deductible under chapter 1 of the Code.

(2) *Interest specifically allocated to property.* Interest that is specifically allocated to an item of property is attributable only to the carrying of that property. Interest is specifically allocated to an item of property if (i) the indebtedness on which the interest is paid or accrued is secured only by that property, (ii) such indebtedness was specifically incurred for the purpose of purchasing, constructing, maintaining, or improving that property, and (iii) the proceeds of the borrowing were applied for that purpose.

(3) *Other interest.* Interest which is not specifically allocated to property is apportioned between foreclosure property and other property under the principles of § 1.861–8(e)(2)(v).

(4) *Effective date.* The rules in this paragraph (e) are mandatory for all taxable years ending after February 6, 1981.

Par. 15. Section 1.857–5, as added by paragraph 34 of the notice of proposed

rulemaking, is amended by striking out "should be" in the first sentence of paragraph (b) and inserting in lieu thereof "are".

Par. 16. Section 1.857–6, as redesignated by paragraph 34 and amended by paragraph 35 of the notice of proposed rulemaking, is amended by striking out "(1) A capital gain" immediately after the title of paragraph (e), and inserting in lieu thereof "(1)(i) A captial gain", and by adding a new subdivision (ii) at the end of paragraph (e), to read as follows:

(e) *Definition of capital gain dividend.* (1)
* * *

(ii) For purposes of section 857(b)(3)(C) and this paragraph, the net captial gain for a taxable year ending after October 4, 1976, is deemed not to exceed the real estate investment trust taxable income determined by taking into account the net operating loss deduction for the taxable year but not the deduction for dividends paid. See example (2) in § 1.172–5(a)(5).

* * * * *

Par. 16a. Subparagraphs 1 and 2 of paragraph 35 of the notice of proposed rulemaking are revised to read as follows:

1. The first sentence of paragraph (b) is amended by striking out "an investment trust for" and inserting in lieu thereof "a corporation, trust, or association for".

2. Paragraph (c)(1) is amended by striking out "857(b)(4)" and inserting in lieu thereof "857(b)(7)."

Par. 17. A new paragraph 44 is added to the notice of proposed rulemaking, to read as follows:

Par. 44. Section 1.857–6, as redesignated by Par. 34 of this document, is amended by striking out "December 1" in the example in paragraph (c)(3) and inserting in lieu thereof, "December 31".

Par. 18. Section 1.859–3, as added by paragraph 42 of the notice of proposed rulemaking, is amended by inserting "(computed without the dividends paid deduction)" after "income of corporation X" in the sixth sentence of Example (1) in paragraph (c).

Par. 19. The date of publication of this Treasury decision in the **Federal Register** is substituted for the date the notice of proposed rulemaking is adopted as a Treasury decision wherever the later date was specified in the notice of proposed rulemaking.

Title 26 of the Code of Federal Regulations is further amended by adding a new section 5.856–1 to Part 5, Temporary Income Tax Regulations under the Revenue Act of 1978, to read as follows:

§ 5.856–1 Extensions of the grace period for foreclosure property by a real estate investment trust.

(a) *In general.* Under section 856(e), a real estate investment trust ("REIT") may elect to treat as foreclosure property certain real property (including interests in real property), and any personal property incident to such real property, that the REIT acquires after December 31, 1973. In general, the REIT must acquire the property as the result of having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was default (or default was imminent) on a lease of such property (where the REIT was the lessor) or on an indebtedness owed to the REIT which such property secured. Property that a REIT elects to treat as foreclosure property ceases to be foreclosure property with respect to such REIT at the end of a grace period. The grace period ends on the date which is 2 years after the date on which the REIT acquired the property, unless the REIT has been granted an extension or extensions of the grace period. If the grace period is extended, the property ceases to be foreclosure property on the day immediately following the last day of the grace period, as extended.

(b) *Rules for extensions of the grace period.* In general, § 1.856–6(g) prescribes rules regarding extensions of the grace period. However, in order to reflect the amendment of section 856(e)(3) of the Code by section 363(c) of the Revenue Act of 1978, the following rules also apply:

(1) In the case of extensions granted after November 6, 1978, with respect to extension periods beginning after December 31, 1977, the district director may grant one or more extensions of the grace period for the property, subject to the limitation that no extension shall extend the grace period beyond the date which is 6 years after the date the REIT acquired the property. In any other case, an extension shall be for a period of not more than 1 year, and not more than two extensions can be granted with respect to the property.

(2) In the case of an extension period beginning after December 31, 1977, a request for an extension filed on or before March 28, 1980, will be considered to be timely if the limitation on the number and length of extensions in section 856(e)(3), as in effect before the amendment made by section 363(c) of the Revenue Act of 1978, would have barred the extension.

This Treasury decision is issued under the authority contained in the following sections of the Internal Revenue Code of 1954: section 856(d)(4) (90 Stat. 1750, 26 U.S.C. 856(d)(4)); section 856(e)(5) (88 Stat. 2113; 26 U.S.C. 856(e)(5)); section 856(f)(2) (90 Stat. 1751; 26 U.S.C. 856(f)(2)); section 856(g)(2) (90 Stat. 1753; 26 U.S.C. 856(g)(2)); section 858(a) (74 Stat. 1008; 26 U.S.C. 858(a)); section 859(c) (90 Stat. 1743; 26 U.S.C. 859(c)); section 859(e) (90 Stat. 1744; 26 U.S.C. 859(e)); section 6001 (68A Stat. 731, 26 U.S.C. 6001); section 6011 (68A Stat. 732, 26 U.S.C. 6011); section 6071. (68A Stat. 749, 26 U.S.C. 6071); section 6091 (68A Stat. 752, 26 U.S.C. 6091); section 7805 (68A Stat. 917, 26 U.S.C. 7805). The amendments are also issued under the authority contained in section 1608(d)(2) of the Tax Reform Act of 1976 (90 Stat. 1758).

Dated: January 19, 1981.

William E. Williams,

Acting Commissioner of Internal Revenue.

Emil M. Sunley,

Acting Assistant Secretary of the Treasury.

26 CFR Parts 1, 5, 7, 10, and 55 are amended as follows:

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

Paragraph 1. Section 1.46 is removed.

Par. 2. Section 1.46–4(b)(2) is amended by striking out "857(b)(2)(C)" in subdivision (ii) and inserting in lieu thereof "857(b)(2)(B) (section 857(b)(2)(C), as then in effect, for taxable years ending before October 5, 1976)" and by adding three new sentences after the second sentence, to read as set forth below.

§ 1.46–4 Limitations with respect to certain persons.

* * * * *

(b) Regulated investment companies and the real estate investment trusts.
* * *

(2) * * * In the case of a taxable year ending after October 4, 1976, real estate investment trust taxable income, for purposes of section 46(e) and this paragraph, is determined by excluding any net capital gain, and by computing the deduction for dividends paid without regard to capital gains dividends (as defined in section 857(b)(3)(C)). In the case of a real estate investment trust, the amount of the deduction for dividends paid includes the amount of deficiency dividends (other than capital gains deficiency dividends) taken into account in computing real estate investment trust taxable income for the taxable year. See section 859(d) for the definition of deficiency dividends. * * *

* * * * *

Par. 3. Section 1.50B–5(b)(2) is amended by striking out "857(b)(2)(C)" in subdivision (ii) and inserting in lieu thereof "857(b)(2)(B) (section 857(b)(2)(C), as then in effect, for taxable years ending before October 5, 1976)" and by adding three new sentences after the second sentence, to read as set forth below.

§ 1.50B–5 Limitations with respect to certain persons.

* * * * *

(b) Regulated investment companies and real estate investment trusts.* * *

(2) * * * In the case of a taxable year ending after October 4, 1976, real estate investment trust taxable income, for purposes of this paragraph, is determined by excluding any net capital gain, and by computing the deduction for dividends paid without regard to capital gains dividends (as defined in section 857(b)(3)(C)). In the case of a real estate investment trust, the amount of the deduction for dividends paid includes the amount of deficiency dividends (other than capital gains deficiency dividends) taken into account in computing real estate investment trust taxable income for the taxable year. See section 859(d) for the definition of deficiency dividends.

* * * * *

§ 1.116–1 [Amended]

Par. 4. Section 1.116–1(d)(2)(iv) is amended by striking out "1.857–4" and inserting in lieu thereof "1.857–6".

Par. 5. Section 1.164–2 is amended by striking out "or (c) of this section" in paragraph (f) and inserting in lieu thereof "(c), or (h) of this section", and by adding a new paragraph (h) at the end thereof to read as set forth below.

§ 1.164–2 Deduction denied in case of certain taxes.

* * * * *

(h) *Excise tax on real estate investment trusts.* The excise tax imposed on certain real estate investment trusts by section 4981.

§ 1.172 [Removed]

Par. 6. Section 1.172 is removed.

Par. 7. A new paragraph (e) is added at the end of § 1.172–2 to read as set forth below.

§ 1.172–2 Net operating loss in case of a corporation.

* * * * *

(e) *Qualified real estate investment trusts.* For taxable years ending after October 4, 1976, the net operating loss of a qualified real estate investment trust (as defined in § 1.172–12(b)) is computed by taking into account the adjustments described in section 857(b)(2) (other than the deduction for dividends paid, as defined in section 561), as well as the modifications required by paragraph (a)(1) of this section. Thus, for example, the special deductions for dividends received, etc., provided in part VIII of subchapter B (other than section 248), as well as the net operating loss deduction under section 172, are not allowed in computing the net operating loss of a qualified real estate investment trust.

§ 1.172–4 [Amended]

Par. 8. Section 1.172–4 is amended as follows:

1. Paragraph (a)(1)(ii) is amended by inserting "§ 1.172–12(a)," immediately after "of this subparagraph,".

2. Paragraph (a)(1)(iii) is amended by striking out "and § 1.172–9" and inserting in lieu thereof ", § 1.172–9, and the exception in § 1.172–12(a)".

3. Paragraph (a)(1)(iv) is amended by inserting "and § 1.172–12(a)" after "Except as provided in subdivision (v) of this subparagraph".

4. Paragraphs (a)(1)(viii) and (a)(1)(ix) are each amended by inserting "(except as provided in § 1.172–12(a))" after "be carried back".

Par. 9. Paragraph (a) of § 1.172–5 is amended by adding a new subparagraph (5) at the end thereof, to read as set forth below.

§ 1.172–5 Taxable income which is subtracted from net operating loss to determine carryback or carryover.

(a) *Taxable year subject to the Internal Revenue Code of 1954.* * * *

(5) *Qualified real estate investment trust.* Where a net operating loss is carried over to a qualified taxable year (as defined in § 1.172–12(b)) ending after October 4, 1976, the real estate investment trust taxable income (as defined in section 857(b)(2)) shall be used as the "taxable income" for that taxable year to determine, under section 172(b)(2), the balance of the net operating loss available as a carryover to a subsequent taxable year. The real estate investment trust taxable income, however, is computed by applying the rules applicable to corporations in paragraph (a)(3) of this section. Thus, in computing real estate investment trust taxable income for purposes of section 172(b)(2), the net operating loss deduction for the taxable year shall be computed in accordance with paragraph (a)(3)(i) of this section. The principles of this subparagraph may be illustrated by the following examples:

Example (1). Corporation X, a calendar year taxpayer, is formed on January 1, 1977. X incurs a net operating loss of $100,000 for its taxable year 1977, which under section 172(b)(2), is a carryover to 1978. For 1978 X is a qualified real estate investment trust (as defined in § 1.172–12(b)) and has real estate investment trust taxable income (determined without regard to the deduction for dividends paid or the net operating loss deduction) of $150,000, all of which consists of ordinary income. X pays dividends in 1978 totaling $120,000 that qualify for the deduction for dividends paid under section 857(b)(2)(B). The portion of the 1977 net operating loss available as a carryover to 1979 and subsequent years is $70,000 (i.e., the excess of the amount of the net operating loss ($100,000) over the amount of the real estate investment trust taxable income for 1978 ($30,000), determined by taking into account the deduction for dividends paid allowable under section 857(b)(2)(B) and without taking into account the net operating loss of 1977).

Example (2). (i) Assume the same facts as in example (1), except that the $150,000 of real estate investment trust taxable income (determined without the net operating loss deduction or the dividends paid deduction) consists of $80,000 of ordinary income and $70,000 of net capital gain. The amount of capital gain dividends which may be paid for 1978 is limited to $50,000, that is, the amount of the real estate investment trust taxable income for 1978, determined by taking into account the net operating loss deduction for the taxable year, but not the deduction for dividends paid ($150,000 minus $100,000). See § 1.857–6(e)(1)(ii).

(ii) X designated $50,000 of the $120,000 of dividends paid as capital gains dividends (as defined in section 857(b)(3)(C) and § 1.857–6(e)). Thus, $70,000 is an ordinary dividend. Since both ordinary dividends and capital gains dividends are taken into account in computing the deduction for dividends paid under section 857(b)(2)(B), the result will be the same as in example (1); that is, the portion of the 1977 net operating loss available as a carryover to 1979 and subsequent years is $70,000.

Par. 10. A new § 1.172–12 is added after § 1.172–11 to read as follows:

§ 1.172–12 Net operating losses of real estate investment trusts.

(a) *Taxable years to which a loss may be carried.* (1) [reserved]

(2) A qualified taxable year is a taxable year preceding or following the taxable year of the net operating loss, for purposes of section 172(b)(1), even though the loss may not be carried to, or allowed as a reduction in, such qualified taxable year. Thus, a qualified taxable year ending before October 5, 1976 (for which no net operating loss deduction is allowable) is nevertheless a preceding or following taxable year for purposes of section 172(b)(1). Moreover, a qualified taxable year ending after October 4, 1976 (to which a net operating loss cannot be carried back because of section 172(b)(1)(E)) is nevertheless a preceding taxable year for purposes of section 172(b)(1). For purposes of determining, under section 172(b)(2), the balance of the loss available as a carryback or carryover to other taxable years, however, the net operating loss is not reduced on account of such qualified taxable year being a preceding or following taxable year.

(b) *Definitions.* For purposes of this section and §§ 1.172–2 and 1.172–5—

(1) The term "qualified real estate investment trust" means, with respect to any taxable year, a real estate investment trust within the meaning of part II of subchapter M which is taxable

for such year under that part as a real estate investment trust, and

(2) The term "qualified taxable year" means a taxable year for which the taxpayer is a qualified real estate investment trust.

(c) *Cross references.* See §§ 1.172–2(e) and 1.172–5(a)(5) for the computation of the net operating loss of a qualified real estate investment trust for a taxable year ending after October 4, 1976, and the amount of a net operating loss which is absorbed when carried over to a qualified taxable year ending after October 4, 1976. See § 1.857–2(a)(5), which provides that for a taxable year ending before October 5, 1976, the net operating loss deduction is not allowed in computing the real estate investment trust taxable income of a qualified real estate investment trust.

§ 1.243–2 [Amended]

Par. 11. Section 1.243–2(c) is amended by striking out "1.857–4" and inserting in lieu thereof "1.857–6".

§ 1.246–1 [Amended]

Par. 12. Section 1.246–1(d) is amended by striking out "1.857–4" and inserting in lieu thereof "1.857–6".

§ 1.275 [Removed]

Par. 13. Section 1.275 is removed.

§ 1.275–1 [Amended]

Par. 14. Section 1.275–1 is amended by striking out "and (e)" and inserting in lieu thereof "(e) and (h)".

§ 1.316 [Removed]

Par. 15. Section 1.316 is removed.

Par. 16. Section 1.316–1 is amended as follows:

1. Paragraph (d) of § 1.316–1 is redesignated as paragraph (e) and a new paragraph (d) is inserted immediately after paragraph (c), to read as set forth below:

2. A new example (7) is added at the end of paragraph (e) (as redesignated), to read as set forth below.

§ 1.316–1 Dividends.

* * * * *

(d) In the case of a corporation which, under the law applicable to the taxable year in respect of which a distribution is made under section 859 (relating to deficiency dividends), was a real estate investment trust (within the meaning of section 856), the term "dividend," in addition to the meaning set forth in paragraphs (a) and (b) of section 316, means a distribution of property to its shareholders which constitutes a "deficiency dividend" as defined in section 859(d).

(e) * * *

Example (7). In 1979, a deficiency of $46,000 in the tax on real estate investment trust taxable income is established against corporation R for the taxable year 1977, based on an increase in real estate investment trust taxable income of $100,000. Corporation R complied with the provisions of section 859 and in December 1979 distributed to its stockholders $100,000, which qualified as "deficiency dividends" under section 859(d). The distribution of $100,000 is a taxable dividend. It is immaterial whether corporation R is a real estate investment trust for the taxable year 1979 or whether it had accumulated or current earnings and profits in 1979.

§ 1.381(c)(17)–(1) [Amended]

Par. 17. The example in § 1.381(c)(17)–(1)(f) is amended by striking out "paragraph (d) of § 1.316–1" in the sixth sentence and inserting in lieu thereof "paragraph (e) of § 1.316–1".

Par. 18. A new § 1.381(c)(25)–1 is added after § 1.381(c)(24)–1, to read as follows:

§ 1.381(c)(25)–1 Deficiency dividend of real estate investment trust.

(a) *Carryover requirement.* If a distributor or transferor corporation in a transaction to which section 381(a) applies—

(1) Was a real estate investment trust (within the meaning of section 856, as in effect for the applicable taxable year) for any taxable year ending on or before the date of distribution or transfer, and

(2) A determination (as defined in section 859(c)) establishes that the transferor or distributor corporation is liable for the tax imposed by section 11(a), 56(a), 857(b)(1), 857(b)(3)(A), or 1201(a) for such taxable year,

then in determining the liability for such tax the deduction described in section 859 shall be allowed pursuant to section 381(c)(25) to such corporation for the amount of deficiency dividends paid by the acquiring corporation with respect to the distributor or transferor corporation. Except as otherwise provided in this section, the provisions of section 859 and the regulations thereunder apply with respect to a deficiency dividend deduction allowable pursuant to section 381(c)(25).

(b) *Deficiency dividends paid by the acquiring corporation with respect to the distributor or transferor corporation.* A deficiency dividend paid by the acquiring corporation with respect to the distributor or transferor corporation must be a distribution that would satisfy the definition of a deficiency dividend under section 859(d) if paid by the distributor or transferor corporation to its own shareholders. The distribution, however, shall be paid by the acquiring corporation to its own shareholders. The distribution also shall be paid after the date of distribution or transfer and on, or within 90 days after, the date of the determination but before the acquiring corporation files a claim under paragraph (c) of this section.

(c) *Claim for deduction.* A claim for deduction under this section shall be made by the acquiring corporation on form 976 and shall be filed within 120 days after the date of the determination. The form shall contain, or be accompanied by, the information required under paragraph (b)(2) of § 1.859–2 in sufficient detail to properly identify the facts with respect to the distributor or transferor corporation and the acquiring corporation. The required certified copy of the resolution authorizing the payment of the dividend shall be that of the trustees, board of directors, or other authority, of the acquiring corporation. Necessary changes may be made in form 976 in order to carry out the provisions of this paragraph. The claim shall be filed with the district director, or director of the internal revenue service center, with whom the return of the distributor or transferor corporation to which the claim relates was filed.

(d) *Effect on dividends paid deduction.* A deficiency dividend paid by the acquiring corporation that is allowable as a deduction to a distributor or transferor corporation pursuant to section 381(c)(25) shall not become a part of the dividends paid deduction of the acquiring corporation under section 561 for any taxable year.

(e) *Successive transactions to which section 381(a) applies.* The provisions of this section shall apply in the case of successive transactions to which section 381(a) applies. Thus, if X corporation transfers its assets to Y corporation in a transaction to which section 381(a) applies and if Y corporation transfers its assets to Z corporation in a subsequent transaction to which section 381(a) applies, then, subject to the provisions of this section, X corporation may take a deficiency dividend deduction for the amount of deficiency dividends paid by Z corporation with respect to X corporation.

Par. 19. Section 1.441–1(b)(3) is amended by adding a new sentence at the end thereof, to read as set forth below.

§ 1.441–1 Period for computation of taxable income.

* * * * *

(b) *Taxable year.* * * *

(3) * * * For rules applicable to the adoption of a taxable year by a real

estate investment trust, see section 860 and § 1.860–1.

* * * * *

Par. 20. Section 1.442–1 is amended by adding a new sentence at the end of paragraph (a)(1), to read as set forth below, and by striking out "A corporation (other than a corporation to which subparagraphs (4) or (5) of this paragraph applies)" in the first sentence of paragraph (c)(1) and inserting in lieu thereof "Except as otherwise provided in paragraph (c)(4) and (5) of this section and § 1.860–1, a corporation".

§ 1.442–1 Change of annual accounting period.

(a) *Manner of effecting such change.*—(1) *In general.* * * * For special rules relating to real estate investment trusts, see section 860 and § 1.860–1.

* * * * *

§ 1.443–1 [Amended]

Par. 21. Section 1.443–1(e)(5) is amended by striking out "857(b)(2)(D)" and inserting in lieu thereof "857(b)(2)(C)".

§ 1.512(b)–1 [Amended]

Par. 22. Section 1.512(b)–1(c)(2)(iii)(*b*) is amended by striking out "paragraph (b)(1)" and inserting in lieu thereof "paragraph (b)(3) and (6) (other than paragraph (b)(6)(ii))".

§ 1.562–1 [Amended]

Par. 23. The example in § 1–562–1(b)(2)(iii) is amended by striking out "paragraph (d)" in the last sentence and inserting in lieu thereof "paragraph (e)".

§ 1.856 [Removed]

Par. 24. Section 1.856 is removed and a new § 1.856.0 is added to read as follows:

§ 1.856–0 Revenue Act of 1978 amendments not included.

The regulations under part II of subchapter M of the Code do not reflect the amendments made by the Revenue Act of 1978.

Par. 25. Section 1.856–1 is amended as follows:

1. Paragraph (a) is amended by striking out "The term 'real estate investment trust' means an unincorporated trust or unincorporated association" and inserting in lieu thereof, "The term 'real estate investment trust' means a corporation, trust, or association".

2. Paragraph (a) is further amended by adding a new sentence at the end thereof, to read as set forth below.

3. So much of paragraph (b) as precedes subparagraph (1) is amended by striking out "unincorporated".

4. Paragraph (b)(1) is amended by inserting "or directors" before the comma at the end thereof.

5. Paragraph (b)(4) is amended by inserting ", in the case of a taxable year beginning before October 5, 1976," after "Which" and by inserting "(other than foreclosure property)" after "property".

6. Paragraph (b) is amended by redesignating subparagraphs (5) and (6) as (6) and (7), respectively, and inserting a new subparagraph (5) to read as set forth below.

7. Paragraph (c) is amended by striking out "(4)" in the first sentence and inserting in lieu thereof "(5)", and by striking out "(5)" in the first and third sentences and inserting in lieu thereof "(6)".

8. So much of paragraph (d) as precedes paragraph (1) is amended by striking out "unincorporated".

9. The second sentence of paragraph (d)(2) is amended by striking out "trust instrument" and inserting in lieu thereof "trust instrument or corporate charter or bylaws", by striking out "trustee" each place it appears and inserting in lieu thereof "trustee or directors", and by striking out "believes" and inserting "believe" in lieu thereof.

10. The last sentence of paragraph (d)(2) is amended by striking out "investment trust and" and inserting in lieu thereof "investment trust," and by striking out the period at the end thereof and inserting in lieu thereof ", and the term 'shares' includes shares of stock."

11. The first sentence of paragraph (d)(4) is amended by striking out "A real" and inserting in lieu thereof "In the case of a taxable year beginning before October 5, 1976, a real" and by inserting "(other than foreclosure property)" after "property".

12. Paragraph (d)(5) is amended by striking out "An unincorporated organization" in the first sentence and inserting in lieu thereof "A corporation, trust, or association", and by striking out" § 1.857–6" in the last sentence and inserting in lieu thereof "§ 1.857–8".

13. Paragraph (e) is amended by striking out "unincorporated trust" and inserting in lieu thereof "organization".

14. A new paragraph (f) is added to read as set forth below.

§ 1.856–1 Definition of real estate investment trust.

(a) *In general.* * * * (See, however, paragraph (f) of this section, relating to the requirement that, for taxable years beginning before October 5, 1976, a real estate investment trust must be an unincorporated trust or unincorporated association).

(b) *Qualifying conditions.* * * *

(5) Which is neither (i) a financial institution to which section 585, 586, or 593 applies, nor (ii) an insurance company to which subchapter L applies.

* * * * *

(f) *Unincorporated status required for certain taxable years.* In the case of a taxable year beginning before October 5, 1976, a real estate investment trust must be an unincorporated trust or unincorporated association. Accordingly, in applying the regulations under part II of subchapter M of the Code with respect to such a taxable year, the term "an unincorporated trust or unincorporated association" is to be substituted for the term "a corporation, trust, or association" each place it appears, and the references to "directors" and "corporate charter or bylaws" are to be disregarded.

Par. 26. Section 1.856–2 is amended as follows:

1. Paragraph (b) is amended by striking out "which began after December 31, 1960" and inserting in lieu thereof "which has not been terminated or revoked under section 856(g) (1) or (2)", and by striking out the last sentence and inserting three new sentences in lieu thereof, to read as set forth below.

2. Paragraph (c) is revised to read as set forth below.

§ 1.856–2 Limitations.

* * * * *

(b) *Election.* * * * An election cannot be revoked with respect to a taxable year beginning before October 5, 1976. Thus, the failure of an organization to be a qualified real estate investment trust for a taxable year beginning before October 5, 1976, does not have the effect of revoking a prior election by the organization to be a real estate investment trust, even though the organization is not taxable under part II of subchapter M for such taxable year. See section 856(g) and § 1.856–8 for rules under which an election may be revoked with respect to taxable years beginning after October 4, 1976.

(c) *Gross income requirements.* Section 856(c) (2), (3), and (4), provides that a corporation, trust, or association is not a "real estate investment trust" for a taxable year unless it meets certain requirements with respect to the sources of its gross income for the taxable year. In determining whether the gross income of a real estate investment trust satisfies the percentage requirements of section 856(c) (2), (3), and (4), the following rules shall apply:

(1) *Gross income.* For purposes of both the numerator and denominator in the computation of the specified percentages, the term "gross income"

has the same meaning as that term has under section 61 and the regulations thereunder. Thus, in determining the gross income requirements under section 856(c) (2), (3), and (4), a loss from the sale or other disposition of stock, securities, real property, etc. does not enter into the computation.

(2) *Lapse of options.* Under section 856(c)(6)(C), the term "interests in real property" includes options to acquire land or improvements thereon, and options to acquire leaseholds of land and improvements thereon. However, where a corporation, trust, or association writes an option giving the holder the right to acquire land or improvements thereon, or writes an option giving the holder the right to acquire a leasehold of land or improvements thereon, any income that the corporation, trust, or association recognizes because the option expires unexercised is not considered to be gain from the sale or other disposition of real property (including interests in real property) for purposes of section 856(c)(2)(D) and (3)(C). The rule in the preceding sentence also applies for purposes of section 856(c)(4)(C) in determining gain from the sale or other disposition of real property for the 30-percent-of-gross-income limitation.

(3) *Commitment fees.* For purposes of section 856(c) (2)(G) and (3)(G), if consideration is received or accrued for an agreement to make a loan secured by a mortgage covering both real property and other property, or for an agreement to purchase or lease both real property and other property, an apportionment of the consideration is required. The apportionment of consideration received or accrued for an agreement to make a loan secured by a mortgage covering both real property and other property shall be made under the principles of § 1.856-5(c), relating to the apportionment of interest income.

(4) *Holding period of property.* For purposes of the 30-percent limitation of section 856(c)(4), the determination of the period for which property described in such section has been held is governed by the provisions of section 1223 and the regulations thereunder.

(5) *Rents from real property and interest.* See §§ 1.856-4 and 1.856-5 for rules relating to rents from real property and interest.

* * * * *

Par. 27. Section 1.856-3 is amended by adding a new sentence at the end of paragraph (c) and by adding a new paragraph (h) at the end thereof, to read as set forth below.

§ 1.856-3 Definitions.

* * * * *

(c) *Interests in real property.* * * * The term "interests in real property" also includes options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

* * * * *

(h) *Net capital gain.* The term "net capital gain" means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the taxable year.

Par. 28. Section 1.856-4 is amended as follows:

1. Paragraph (a) is amended by deleting the last two sentences and by striking out "limitations" in the first sentence and inserting in lieu thereof "exceptions".

2. Paragraphs (b) (1), (2), (3), and (4) are redesignated as paragraph (b) (3), (4), (5), and (7), respectively, and so much of paragraph (b) as precedes paragraph (b)(3), as redesignated, is revised to read as set forth below.

3. Paragraph (b)(3), as redesignated, is revised to read as set forth below.

4. The title and first sentence of paragraph (b)(4), as redesignated, are revised to read as set forth below.

5. Paragraph (b)(5), as redesignated, is amended by redesignating subdivisions (ii) and (iii) as subdivisions (iii) and (iv), respectively.

6. So much of paragraph (b)(5), as redesignated, as precedes subdivision (iii) thereof, as redesignated, is revised to read as set forth below.

7. A new paragraph (6) is added to read as set forth below.

§ 1.856-4 Rents from real property.

* * * * *

(b) *Amounts specifically included or excluded*—(1) *Charges for customary services.* For taxable years beginning after October 4, 1976, the term "rents from real property", for purposes of paragraphs (2) and (3) of section 856(c), includes charges for services customarily furnished or rendered in connection with the rental of real property, whether or not the charges are separately stated. Services furnished to the tenants of a particular building will be considered as customary if, in the geographic market in which the building is located, tenants in buildings which are of a similar class (such as luxury apartment buildings) are customarily provided with the service. The furnishing of water, heat, light, and air-conditioning, the cleaning of windows, public entrances, exits, and lobbies, the performance of general maintenance and of janitorial and cleaning services, the collection of trash, and the furnishing of elevator services, telephone answering services, incidental storage space, laundry equipment, watchman or guard services, parking facilities, and swimming pool facilities are examples of services which are customarily furnished to the tenants of a particular class of buildings in many geographic marketing areas. Where it is customary, in a particular geographic marketing area, to furnish electricity or other utilities to tenants in buildings of a particular class, the submetering of such utilities to tenants in such buildings will be considered a customary service. To qualify as a service customarily furnished, the service must be furnished or rendered to the tenants of the real estate investment trust or, primarily for the convenience or benefit of the tenant, to the guests, customers, or subtenants of the tenant. The service must be furnished through an independent contractor from whom the trust does not derive or receive any income. See paragraph (b)(5) of this section. For taxable years beginning before October 5, 1976, the rules in paragraph (b)(3) of 26 CFR 1.856-4 (revised as of April 1, 1977), relating to the furnishing of services, shall continue to apply.

(2) *Amounts received with respect to certain personal property.*—(i) *In general.* In the case of taxable years beginning after October 4, 1976, rent attributable to personal property that is leased under, or in connection with, the lease of real property is treated under section 856(d)(1)(C) as "rents from real property" (and thus qualified for purposes of the income source requirements) if the rent attributable to the personal property is not more than 15 percent of the total rent received or accrued under the lease for the taxable year. If, however, the rent attributable to personal property is greater than 15 percent of the total rent received or accrued under the lease for the taxable year, then the portion of the rent from the lease that is attributable to personal property will not qualify as "rents from real property".

(ii) *Application.* In general, the 15-percent test in section 856(d)(1)(C) is applied separately to each lease of real property. However, where the real estate investment trust rents all (or a portion of all) the units in a multiple unit project under substantially similar leases (such as the leasing of apartments in an apartment building or complex to individual tenants), the 15-percent test may be applied with respect to the aggregate rent received or accrued for the taxable year under the similar leases of the property, by using the average of the trust's aggregate adjusted bases of all of the personal property subject to such leases, and the average

of the trust's aggregate adjusted bases of all real and personal property subject to such leases. A lease of a furnished apartment is not considered to be substantially similar to a lease of an unfurnished apartment (including an apartment where the trust provides only personal property, such as major appliances, that is commonly provided by a landlord in connection with the rental of unfurnished living quarters).

(iii) *Taxable years beginning before October 5, 1976.* In the case of taxable years beginning before October 5, 1976, any amount of rent that is attributable to personal property does not qualify as rent from real property.

(3) *Disqualification of rent which depends on income or profits of any person.* Except as provided in paragraph (b)(6)(ii) of this section, no amount received or accrued, directly or indirectly, with respect to any real property (or personal property leased under, or in connection with, real property) qualifies as "rents from real property" where the determination of the amount depends in whole or in part on the income or profits derived by any person from the property. However, any amount so accured or received shall not be excluded from the term "rents from real property" solely by reason of being based on a fixed percentage or percentages of receipts or sales (whether or not receipts or sales are adjusted for returned merchandise, or Federal, State, or local sales taxes). Thus, for example, "rents from real property" would include rents where the lease) provides for differing percentages or receipts or sales from different departments or from separate floors of a retail store so long as each percentage is fixed at the time of entering into the lease and a change in such percentage is not renegotiated during the term of the lease (including any renewal periods of the lease in a manner which has the effect of basing the rent on income of profits. See paragraph (b)(6) of this section for rules relating to certain amounts received or accrued by a trust which are considered to be based on the income or profits of a sublessee of the prime tenant. The amount received or accrued as rent for the taxable year which is based on a fixed percentage or percentages of the lessee's receipts or sales reduced by escalation receipts (including those determined under a formula clause) will qualify as "rents from real property". Escalation receipts include amounts received by a prime tenant from subtenants by reason of an agreement that rent shall be increased to reflect all or a portion of an increase in real estate taxes, property insurance, operating costs of the prime tenant, or similar items customarily included in lease escalation clauses. Where in accordance with the terms of an agreement an amount received or accrued as rent for the taxable year includes both a fixed rental and a percentage of all or a portion of the lessee's income or profits, neither the fixed rental nor the additional amount will qualify as "rents from real property". However, where the amount received or accrued for the taxable year under such an agreement includes only the fixed rental, the determination of which does not depend in whole or in part on the income or profits derived by the lessee, such amount may qualify as "rents from real property". An amount received or accrued as rent for the taxable year which consists, in whole or in part, of one or more percentages of the lessee's receipts or sales in excess of determinable dollar amounts may qualify as "rents from real property", but only if two conditions exist. First, the determinable amounts must not depend in whole or in part on the income or profits of the lessee. Second, the percentages and, in the case of leases entered into after July 7, 1978, the determinable amounts, must be fixed at the time the lease is entered into and a change in percentages and determinable amounts is not renegotiated during the term of the lease (including any renewal periods of the lease) in a manner which has the effect of basing rent on income or profits. In any event, an amount will not qualify as "rents from real property" if, considering the lease and all the surrounding circumstances, the arrangement does not conform with normal business practice but is in reality used as a means of basing the rent on income or profits. The provisions of this subparagraph may be illustrated by the following example:

Example. A real estate investment trust owns land underlying an office building. On January 1, 1975, the trust leases the land for 50 years to a prime tenant for an annual rental of $100x plus 20 percent of the prime tenant's annual gross receipts from the office building in excess of a fixed base amount of $5,000x and 10 percent of such gross receipts in excess of $10,000x. For this purpose the lease defines gross receipts as all amounts received by the prime tenant from occupancy tenants pursuant to leases of space in the office building reduced by the amount by which real estate taxes, property insurance, and operating costs related to the office building for a particular year exceed the amount of such items for 1974. The exclusion from gross receipts of increases since 1974 in real estate taxes, property insurance, and other expenses relating to the office building reflects the fact that the prime tenant passes on to occupancy tenants by way of a customary lease escalation provision the risk that such expenses might increase during the term of an occupancy lease. The exclusion from gross receipts of these expense escalation items will not cause the rental received by the real estate investment trust from the prime tenant to fail to qualify as "rents from real property" for purposes of section 856(c).

(4) *Disqualification of amounts received from persons owned in whole or in part by the trust.* "Rents from real property" does not include any amount received or accrued, directly or indirectly, from any person in which the real estate investment trust owns, at any time during the taxable year, the specified percentage or number of shares of stock (or interest in the assets or net profits) of that person. * * *

(5) *Furnishing of services or management of property must be through an independent contractor*—(i) *In general.* No amount received or accrued, directly or indirectly, with respect to any real property (or any personal property leased under, or in connection with, the real property) qualifies as "rents from real property" if the real estate investment trust furnishes or renders services to the tenants of the property or manages or operates the property, other than through an independent contractor from whom the trust itself does not derive or receive any income. The prohibition against the trust deriving or receiving any income from the independent contractor applies regardless of the source from which the income was derived by the independent contractor. Thus, for example, the trust may not receive any dividends from the independent contractor. The requirement that the trust not receive any income from an independent contractor requires that the relationship between the two be an arm's-length relationship. The independent contractor must be adequately compensated for any services which are performed for the trust. Compensation to an independent contractor determined by reference to an unadjusted percentage of gross rents will generally be considered to be adequate where the percentage is reasonable taking into account the going rate of compensation for managing similar property in the same locality, the services rendered, and other relevant factors. The independent contractor must not be an employee of the trust (*i.e.*, the manner in which he carries out his duties as independent contractor must not be subject to the control of the trust). Although the cost of services which are customarily rendered or furnished in connection with the rental of real property may be borne by the trust, the services must be furnished

or rendered through an independent contractor. Furthermore, the facilities through which the services are furnished must be maintained and operated by an independent contractor. For example, if a heating plant is located in the building, it must be maintained and operated by an independent contractor. To the extent that services (other than those customarily furnished or rendered in connection with the rental of real property) are rendered to the tenants of the property by the independent contractor, the cost of the services must be borne by the independent contractor, a separate charge must be made for the services, the amount of the separate charge must be received and retained by the independent contractor, and the independent contractor must be adequately compensated for the services.

(ii) *Trustee or director functions.* The trustees or directors of the real estate investment trust are not required to delegate or contract out their fiduciary duty to manage the trust itself, as distinguished from rendering or furnishing services to the tenants of its property of managing or operating the property. Thus, the trustees or directors may do all those things necessary, in their fiduciary capacities, to manage and conduct the affairs of the trust itself. For example, the trustees or directors may establish rental terms, choose tenants, enter into and renew leases, and deal with taxes, interest, and insurance, relating to the trust's property. The trustees or directors may also make capital expenditures with respect to the trust's property (as defined in section 263) and may make decisions as to repairs of the trust's property (of the type which would be deductible under section 162), the cost of which may be borne by the trust.

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(6) *Amounts based on income or profits of subtenants.* (i) Except as provided in paragraph (b)(6)(ii) of this section, if a trust leases real property to a tenant under terms other than solely on a fixed sum rental (for example, a percentage of the tenant's gross receipts), and the tenant subleases all or a part of such property under an agreement which provides for a rental based in whole or in part on the income or profits of the sublessee, the entire amount of the rent received by the trust from the prime tenant with respect to such property is disqualified as "rents from real property".

(ii) *Exception.* For taxable years beginning after October 4, 1976, section 856(d)(4) provides an exception to the general rule that amounts received or accrued, directly or indirectly, by a real estate investment trust do not qualify as rents from real property if the determination of the amount depends in whole or in part on the income or profits derived by any person from the property. This exception applies where the trust rents property to a tenant (the prime tenant) for a rental which is based, in whole or in part, on a fixed percentage or percentages of the receipts or sales of the prime tenant, and the rent which the trust receives or accrues from the prime tenant pursuant to the lease would not qualify as "rents from real property" solely because the prime tenant receives or accrues from subtenants (including concessionaires) rents or other amounts based on the income or profits derived by a person from the property. Under the exception, only a proportionate part of the rent received or accrued by the trust does not qualify as "rents from real property". The proportionate part of the rent received or accrued by the trust which is non-qualified is the lesser of the following two amounts:

(A) The rent received or accrued by the trust from the prime tenant pursuant to the lease, that is based on a fixed percentage or percentages of receipts or sales, or

(B) The product determined by multiplying the total rent which the trust receives or accrues from the prime tenant pursuant to the lease by a fraction, the numerator of which is the rent or other amount received by the prime tenant that is based, in whole or in part, on the income or profits derived by any person from the property, and the denominator of which is the total rent or other amount received by the prime tenant from the property.

For example, assume that a real estate investment trust owns land underlying a shopping center. The trust rents the land to the owner of the shopping center for an annual rent of $10x plus 2 percent of the gross receipts which the prime tenant receives from subtenants who lease space in the shopping center. Assume further that, for the year in question, the prime tenant derives total rent from the shopping center of $100x and, of that amount, $25x is received from subtenants whose rent is based, in whole or in part, on the income or profits derived from the property. Accordingly, the trust will receive a total rent of $12x, of which $2x is based on a percentage of the gross receipts of the prime tenant. The portion of the rent which is disqualified is the lesser of $2x (the rent received by the trust which is based on a percentage of gross receipts), or $3x, ($12x multiplied by $25x/$100x). Accordingly, $10x of the rent received by the trust qualifies as "rents from real property" and $2x does not qualify.

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Par. 29. New §§ 1.856–5, 1.856–6, 1.856–7, 1.856–8, and 1.856–9, as set forth below, are added after section 1.856–4.

§ 1.856–5 Interest.

(a) *In general.* In computing the percentage requirements in section 856(c) (2)(B) and (3)(B), the term "interest" includes only an amount which constitutes compensation for the use or forbearance of money. For example, a fee received or accrued by a lender which is in fact a charge for services performed for a borrower rather than a charge for the use of borrowed money is not includable as interest.

(b) *Where amount depends on income or profits of any person.* Except as provided in paragraph (d) of this section, any amount received or accrued, directly or indirectly, with respect to an obligation is not includable as interest for purposes of section 856(c) (2)(B) and (3)(B) if, under the principles set forth in paragraph (b)(3) and (6)(i) of § 1.856–4, the determination of the amount depends in whole or in part on the income or profits of any person (whether or not derived from property secured by the obligation). Thus, for example, if in accordance with a loan agreement an amount is received or accrued by the trust with respect to an obligation which includes both a fixed amount of interest and a percentage of the borrower's income or profits, neither the fixed interest nor the amount based upon the percentage will qualify as interest for purposes of section 856(c) (2)(B) and (3)(B). This paragraph and paragraph (d) of this section apply only to amounts received or accrued in taxable years beginning after October 4, 1976, pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if it is made pursuant to a binding commitment entered into before May 28, 1976.

(c) *Apportionment of interest*—(1) *In general.* Where a mortgage covers both real property and other property, an apportionment of the interest income must be made for purposes of the 75-percent requirement of section 856(c)(3). For purposes of the 75-percent requirement, the apportionment shall be made as follows:

(i) If the loan value of the real property is equal to or exceeds the amount of the loan, then the entire interest income shall be apportioned to the real property.

(ii) If the amount of the loan exceeds the loan value of the real property, then the interest income apportioned to the real property is an amount equal to the interest income multipled by a fraction, the numerator of which is the loan value of the real property, and the denominator of which is the amount of the loan. The interest income apportioned to the other property is an amount equal to the excess of the total interest income over the interest income apportioned to the real property.

(2) *Loan value.* For purposes of this paragraph, the loan value of the real property is the fair market value of the property, determined as of the date on which the commitment by the trust to make the loan becomes binding on the trust. In the case of a loan purchased by the trust, the loan value of the real property is the fair market value of the property, determined as of the date on which the commitment by the trust to purchase the loan becomes binding on the trust. However, in the case of a construction loan or other loan made for purposes of improving or developing real property, the loan value of the real property is the fair market value of the land plus the reasonably estimated cost of the improvements or developments (other than personal property) which will secure the loan and which are to be constructed from the proceeds of the loan. The fair market value of the land and the reasonably estimated cost of improvements or developments shall be determined as of the date on which a commitment to make the loan becomes binding on the trust. If the trust does not make the construction loan but commits itself to provide long-term financing following completion of construction, the loan value of the real property is determined by using the principles for determining the loan value for a construction loan. Moreover, if the morgage on the real property is given as additional security (or as a substitute for other security) for the loan after the trust's commitment is binding, the real property loan value is its fair market value when it becomes security for the loan (or, if earlier, when the borrower makes a binding commitment to add or substitute the property as security).

(3) *Amount of loan.* For purposes of this paragraph, the amount of the loan means the highest principal amount of the loan outstanding during the taxable year.

(d) *Exception.* Section 856(f)(2) provides an exception to the general rule that amounts received, directly or indirectly, with respect to an obligation do not qualify as "interest" where the determination of the amounts depends in whole or in part on the income or profits of any person. The exception applies where the trust receives or accrues, with respect to the obligation of its debtor, an amount that is based in whole or in part on a fixed percentage or percentages of receipts or sales of the debtor, and the amount would not qualify as interest solely because the debtor has receipts or sale proceeds that are based on the income of profits of any person. Under this exception only a proportionate part of the amount received or accrued by the trust fails to qualify as interest for purposes of the percentage-of-income requirements of section 856(c) (2) and (3). The proportionate part of the amount received or accrued by the trust that is non-qualified is the lesser of the following two amounts:

(1) The amount received or accrued by the trust from the debtor with respect to the obligation that is based on a fixed percentage or percentages of receipts or sales, or

(2) The product determined by multiplying by a fraction the total amount received or accrued by the trust from the debtor with respect to the obligation. The numerator of the fraction is the amount of receipts or sales of the debtor that is based, in whole or in part, on the income or profits of any person and the denominator is the total amount of the receipts or sales of the debtor. For purposes of the preceding sentence, the only receipts or sales to be taken into account are those taken into account in determining the payment to the trust pursuant to the loan agreement.

§ 1.856-6 Foreclosure property.

(a) *In general.* Under section 856(e) a real estate investment trust may make an irrevocable election to treat as "foreclosure property" certain real property (including interests in real property), and any personal property incident to the real property, acquired by the trust after December 31, 1973. This section prescribes rules relating to the election, including rules relating to property eligible for the election. This section also prescribes rules relating to extensions of the general two-year period (hereinafter the "grace period") during which property retains its status as foreclosure property, as well as rules relating to early termination of the grace period under section 856(e)(4). The election to treat property as foreclosure property does not alter the character of the income derived therefrom (other than for purposes of section 856(c)(2)(F) and (3)(F)). For example, if foreclosure property is sold, the determination of whether it is property described in section 1221(1) will not be affected by the fact that it is foreclosure property.

(b) *Property eligible for the election—* (1) *Rules relating to acquisitions.* In general, the trust must acquire the property after December 31, 1973, as the result of having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was default (or default was imminent) on a lease of the property (where the trust was the lessor) or on an indebtedness owed to the trust which the property secured. Foreclosure property which secured an indebtedness owed to the trust is acquired for purposes of section 856(e) on the date on which the trust acquires ownership of the property for Federal income tax purposes. Foreclosure property which a trust owned and leased to another is acquired for purposes of section 856(e) on the date on which the trust acquires possession of the property from its lessee. A trust will not be considered to have acquired ownership of property for purposes of section 856(e) where it takes control of the property as a mortgagee-in-possession and cannot receive any profit or sustain any loss with respect to the property except as a creditor of the mortgagor. A trust may be considered to have acquired ownership of property for purposes of section 856(e) even through legal title to the property is held by another person. For example, where, upon foreclosure of a mortgage held by the trust, legal title to the property is acquired in the name of a nominee for the exclusive benefit of the trust and the trust is the equitable owner of the property, the trust will be considered to have acquired ownership of the property for purposes of section 856(e). Generally, the fact that under local law the mortgagor has a right of redemption after foreclosure is not relevant in determining whether the trust has acquired ownership of the property for purposes of section 856(e). Property is not ineligible for the election solely because the property, in addition to securing an indebtedness owed to the trust, also secures debts owed to other creditors. Property eligible for the election includes a building or other improvement which has been constructed on land owned by the trust and which is acquired by the trust upon default of a lease of the land.

(2) *Personal property.* Personal property (including personal property not subject to a mortgage or lease of the real property) will be considered incident to a particular item of real property if the personal property is used in a trade or business conducted on the

property or the use of the personal property is otherwise an ordinary and necessary corollary of the use to which the real property is put. In the case of a hotel, such items as furniture, appliances, linens, china, food, etc. would be examples of incidental personal property. Personal property incident to the real property is eligible for the election even though it is acquired after the real property is acquired or is placed in the building or other improvement in the course of the completion of construction.

(3) *Property with respect to which default is anticipated.* Property is not eligible for the election to be treated as foreclosure property if the loan or lease with respect to which the default occurs (or is imminent) was made or entered into (or the lease or indebtedness was acquired) by the trust with an intent to evict or foreclose, or when the trust knew or had reason to know that default would occur ("improper knowledge"). For purposes of the preceding sentence, a trust will not be considered to have improper knowledge with respect to a particular lease or loan, if the lease or loan was made pursuant to a binding commitment entered into by the trust at a time when it did not have improper knowledge. Moreover, if the trust, in an attempt to avoid default or foreclosure, advances additional amounts to the borrower in excess of amounts contemplated in the original loan commitment or modifies the lease or loan, such advance or modification will be considered not to have been made with an intent to evict or foreclose, or with improper knowledge, unless the original loan or lease was entered into with that intent or knowledge.

(c) *Election*—(1) *In general.* (i) An election to treat property as foreclosure property applies to all of the eligible real property acquired in the same taxable year by the trust upon the default (or as a result of the imminence of default) on a particular lease (where the trust is the lessor) or on a particular indebtedness owed to the trust. For example, if a loan made by a trust is secured by two separate tracts of land located in different cities, and in the same taxable year the trust acquires both tracts on foreclosure upon the default (or imminence of default) of the loan, the trust must include both tracts in the election. For a further example, the trust may choose to make a separate election for only one of the tracts if they are acquired in different taxable years or were not security for the same loan. If real property subject to the same election is acquired at different times in the same taxable year, the grace period for a particular property begins when that property is acquired.

(ii) If the trust acquires separate pieces of real property that secure the same indebtedness (or are under the same lease) in different taxable years because the trust delays acquiring one of them until a later taxable year, and the primary purpose for the delay is to include only one of them in an election, then if the trust makes an election for one piece it must also make an election for the other piece. A trust will not be considered to have delayed the acquisition of property for this purpose if there is a legitimate business reason for the delay (such as an attempt to avoid foreclosure by further negotiations with the debtor or lessee).

(iii) All of the eligible personal property incident to the real property must also be included in the election.

(2) *Time for making election.* The election to treat property as foreclosure property must be made on or before the due date (including extensions of time) for filing the trust's income tax return for the taxable year in which the trust acquires the property with respect to which the election is being made, or April 3, 1975, whichever is later.

(3) *Manner of making the election.* An election made after February 6, 1981, shall be made by a statement attached to the income tax return for the taxable year in which the trust acquired the property with respect to which the election is being made. The statement shall indicate that the election is made under section 856(e) and shall identify the property to which the election applies. The statement shall also set forth—

(i) The name, address, and taxpayer identification number of the trust,

(ii) The date the property was acquired by the trust, and

(iii) A brief description of how the real property was acquired, including the name of the person or persons from whom the real property was acquired and a description of the lease or indebtedness with respect to which default occurred or was imminent.

An election made on or before February 6, 1981 shall be filed in the mamner prescribed in 26 CFR 10.1(f) (revised as of April 1, 1977) (temporary regulations relating to the election to treat property as foreclosure property) as in effect when the election is made.

(4) *Status of taxpayer.* In general, a taxpayer may make an election with respect to an acquisition of property only if the taxpayer is a qualified real estate investment trust for the taxable year in which the acquisition occurs. If, however, the taxpayer establishes, to the satisfaction of the district director for the internal revenue district in which the taxpayer maintains its principal place of business or principal office or agency, that its failure to be a qualified real estate investment trust for a taxable year was to due to reasonable cause and not due to willful neglect, the taxpayer may make the election with respect to property acquired in such taxable year. The principles of §§ 1.856.7(c) and 1.856.8(d) (including the principles relating to expert advice will apply in determining whether, for purposes of this subparagraph, the failure of the taxpayer to be a qualified real estate investment trust for the taxable year in which the property is acquired was due to reasonable cause and not due to willful neglect. If a taxpayer makes a valid election to treat property as foreclosure property, the property will not lose its status as foreclosure property solely because the taxpayer is not a qualified real estate investment trust for a subsequent taxable year (including a taxable year which encompasses an extension of the grace period). However, the rules relating to the termination of foreclosure property status in section 856(e)(4) (but not the tax on income from foreclosure property imposed by section 857(b)(4)) apply to the year in which the property is acquired and all subsequent years, even though the taxpayer is not a qualified real estate trust for such year.

(d) *Termination of 2-year grace period; subsequent leases*—(1) *In general.* Under section 856(e)(4)(A), all real property (and any incidental personal property) for which a particular election has been made (see paragraph (c)(1) of this section) shall cease to be foreclosure property on the first day (occurring on or after the day on which the trust acquired the property) on which the trust either—

(i) Enters into a lease with respect to any of the property which, by its terms, will give rise to income of the trust which is not described in section 856(c)(3) (other than section 856(c)(3)(F)), or

(ii) Receives or accrues, directly or indirectly, any amount which is not described in secion 856(c)(3) (other than section 856(c)(3)(F)) pursuant to a lease with respect to any of the real property entered into by the trust on or after the day the trust acquired the property.

For example, assume the trust acquires, in a particular taxable year, a shopping center upon the default of an indebtedness owed to the trust. Also assume that the trust subsequently enters into a lease with respect to one of several stores in the shopping center

that requires the lessee to pay rent to the trust which is not income described in section 856(c)(3) (other than section 856(c)(3)(F)). In such case, the entire shopping center will cease to be foreclosure property on the day the trust enters into the lease.

(2) *Extensions or renewals of leases.* Generally, the extension or renewal of a lease of foreclosure property will be treated as the entering into of a new lease only if the trust has a right to renegotiate the terms of the lease. If, however, by operation of law or by contract, the acquisition of the foreclosure property by the trust terminates a preexisting lease of the property, or gives the trust a right to terminate the lease, then for purposes of section 856(e)(4)(A), a trust, in such circumstances, will not be considered to have entered into a lease with respect to the property solely because the terms of the preexisting lease are continued in effect after foreclosure without substantial modification. The letting of rooms in a hotel or motel does not constitute the entering into a lease for purposes of section 856(e)(4)(A).

(3) *Rent attributable to personal property.* Solely for the purposes of section 856(e)(4)(A), if a trust enters into a lease with respect to real property on or after the day upon which the trust acquires such real property by foreclosure, and a portion of the rent from such lease is attributable to personal property which is foreclosure property incident to such real property, such rent attributable to the incidental personal property will not be considered to terminate the status of such real property (or such incidental personal property) as foreclosure property.

(e) *Termination of 2-year grace period; completion of construction*—(1) *In general.* Under section 856(e)(4)(B), all real property (and any incidental personal property) for which a particular election has been made (see paragraph (c)(1) of this section) shall cease to be foreclosure property on the first day (occurring on or after the day on which the trust acquired the property) on which any construction takes place on the property, other than completion of a building (or completion of any other improvement) where more than 10 percent of the construction of the building (or other improvement) was completed before default became imminent. If more than one default occurred with respect to an indebtedness or lease in respect of which there is an acquisition, the more-than-10-percent test (including the rule prescribed in this paragraph relating to the test) will not be applied at the time a particular default became imminent if it is clear that the acquisition did not occur as the result of such default. For example, if the debtor fails to make four consecutive payments of principal and interest on the due dates, and the trust takes action to acquire the property securing the debt only after the fourth default becomes imminent, the 10-percent test is applied at the time the fourth default became imminent (even though the trust would not have foreclosed on the property had not all four defaults occurred).

(2) *Determination of percentage of completion.* The determination of whether the construction of a building or other improvement was more than 10 percent complete when default became imminent shall be made by comparing the total direct costs of construction incurred with respect to the building or other improvement as of the date default became imminent with the estimated total direct costs of construction as of such date. If the building or other improvement qualifies as more than 10 percent complete under this method, the building or other improvement shall be considered to be more than 10 percent complete. For purposes of this subparagraph, direct costs of construction include the cost of labor and materials which are directly connected with the construction of the building or improvement.

Thus, for example, direct costs of construction incurred as of the date default became imminent would include amounts paid, or for which liability has been incurred, for labor which has been performed as of such date that is directly connected with the construction of the building or other improvement and for building materials and supplies used or consumed in connection with the construction as of such date. For purposes of applying the 10-percent test the trust may also take into account the cost of building materials and supplies which have been delivered to the construction site as of the date default became imminent and which are to be used or consumed in connection with the construction. On the other hand, architect's fees, administrative costs of the developer or builder, lawyers' fees, and expenses incurred in connection with obtaining zoning approval or building permits are not considerd to be direct costs of construction. Any construction by the trust as mortgagee-in-possession is considered to have taken place after default resulting in acquisition of the property became imminent. Generally, the trust's estimate of the total direct costs of completing construction as of the date the default became imminent will be accepted, provided that the estimate is reasonable, in good faith, and is based on all of the data reasonably available to the trust when the trust undertakes completion of construction of the building or other improvement. Appropriate documentation which shows that construction was more than 10 percent complete when default became imminent must be available at the principal place of business of the trust for inspection in connection with an examination of the income tax return. Construction includes the renovation of a building, such as the remodeling of apartments, or the renovation of an apartment building to convert rental units to a condominium. The renovation must be more than 10 percent complete (determined by comparing the total direct cost of the physical renovation which has been incurred when default became imminent with the estimated total direct cost of renovation as of such date) when default became immiment in order for the property not to lose its status as foreclosure property if the trust undertakes the renovation.

(3) *Modification of a building or improvement.* Generally, the terms "building" and "improvement" in section 856(e)(4)(B) mean the building or improvement (including any intergral part thereof) as planned by the mortgagor or lessee (or other person in possession of the property, if appropriate) as of the date default became imminent. The trust, however, may estimate the total direct costs of construction and complete the construction of the building or other improvement by modifying the building or other improvement as planned as of the date default became imminent so as to reduce the estimated direct cost of construction of the building or improvement. If the trust does so modify the planned construction of the building or improvement, the 10-percent test is to be applied by comparing the direct costs of construction incurred as of the date default became imminent that are attributable to the building or improvement as modified, with the estimated total direct costs (as of such date) of construction of the building or other improvement as modified. The trust, in order to meet the 10-percent test, may not, however, modify the planned building or improvement by reducing the estimated direct cost of construction to such an extent that the building or improvement is not functional.

Also, the trust may make subsequent modifications which increase the direct

cost of construction of the building or improvement if such modifications—

(i) Are required by a Federal, State, or local agency, or

(ii) Are alterations that are either required by a prospective lessee or purchaser as a condition of leasing or buying the property or are necessary for the property to be used for the purpose planned at the time default became imminent.

Subdivision (ii) of the preceding sentence applies, however, only if the building or improvement, as modified, was more than 10 percent complete when default became imminent. A building completed by the trust will not cease to be foreclosure property solely because the building is used in a manner other than that planed by the defaulting mortgagor or lessee. Thus, for example, assume a trust acquired on foreclosure a planned apartment building which was 20 percent complete when default became imminent and that the trust completes the building without modifications which increase the direct cost of construction. The property will not cease to be foreclosure property by reason of section 856(e)(4)(B) solely because the trust sells the dwelling units in the building as condominium units, rather than holding them for rent as planned by the defaulting mortgagor. (See, however, section 856(e)(4)(C) and paragraph (f)(2) of this section for rules relating to the requirement that where foreclosure property is used in a trade or business (including a trade or business of selling the foreclosure property), the trade or business must be conducted through an independent contractor after 90 days after the property is acquired.)

(4) *Application on building-by-building basis.* Generally the more than 10 percent test is to be applied on a building-by-building basis. Thus, for example, if a trust has foreclosed on land held by a developer building a housing subdivision, the trust may complete construction of the houses which were more than 10 percent complete when default became imminent. The trust, however, may not complete construction of houses which were only 10 percent (or less) complete, nor may the trust begin construction of other houses planned for the subdivision on which construction has not begun. The trust, however, may construct an additional building or improvement (whether or not the construction thereof has begun) which is an integral part of another building or other improvement that was more than 10 percent complete when default became imminent if the additional building or improvement and the other building or improvement, taken together as a unit, meet the more than 10 percent test. For purposes of this paragraph, an additional building or other improvement will be considered to be an integral part of another building or improvement if—

(i) It is ancillary to the other building or improvement and its principal intended use is to furnish services or facilities which either supplement the use of such other building or improvement or are necessary for such other building or improvement to be utilized in the manner or for the purpose for which it is intended, or

(ii) The buildings or improvements are intended to comprise constituent parts of an interdependent group of buildings or other improvements.

However, a building or other improvement will not be considered to be an integral part of another building or improvement unless the buildings or improvements were planned as part of the same overall construction plan or project before default became imminent. An additional building or other improvement (such as, for example, an outdoor swimming pool or a parking garage) may be considered to be an integral part of another building or improvement, even though the additional building or improvement was also intended to be used to provide facilities or services for use in connection with several other buildings or improvements which will not be completed. If the trust chooses not to undertake the construction of an additional building or other improvement which qualifies as an integral part of another building or improvement, so much of the costs of construction (including both the direct costs of construction incurred before the default became imminent and the estimated costs of completion) as are attributable to that "integral part" shall not be taken into account in determining whether any other building or improvement was more than 10 percent complete when default became imminent. For example, assume the trust acquires on foreclosure a property on which the defaulting mortgagor has begun construction of a motel. The motel, as planned by the mortgagor, was to consist of a two-story building containing 30 units, and two detached one-story wings, each of which was to contain 20 units. At the time default became imminent, the defaulting mortgagor had completed more than 10 percent of the construction of the two-story structure but the two wings, an access road, a parking lot, and an outdoor swimming pool planned for the motel were each less than 10 percent complete. The trust may construct the two wings of the motel, the access road, the parking lot, and the swimming pool: *Provided,* That the motel and the other improvements which the trust undertakes to construct, taken together as a unit, were more than 10 percent complete when default became imminent. If, however, the trust chooses not to undertake construction of the swimming pool, the cost of construction attributable to the swimming pool, whether incurred before default became imminent or estimated as the cost of completion, shall not be taken into account in determining whether the trust can complete construction of the other buildings and improvements. For another example, assume that the trust acquires a planned shopping center on foreclosure. At the time default became imminent several large buildings intended to house shops and stores in the shopping center were more than 10 percent complete. Less than 10 percent of the construction, however, had been completed on a separate structure intended to house a bank. The bank was planned as a component of the shopping center in order to provide, in conjunction with the other shops and stores, a specific range and variety of goods and services with which to attract customers to the shopping center. The trust may complete construction of the bank: *Provided,* That the bank and the other buildings and improvements which the trust undertakes to complete, taken together as a unit, were more than 10 percent complete when default became imminent. If the trust chooses not to construct the bank, no actual or estimated construction costs attributable to the bank are to be taken into account in applying the 10-percent test with respect to the other buildings and improvements in the shopping center. For a third example, assume that a defaulting mortgagor had planned to construct two identical apartment buildings, A and B, on the same tract of land, that neither building is to provide substantial facilities or services to be used in connection with the other, and that only building A was more than 10 percent complete when default became imminent. The trust, in this case, may not complete building B. On the other hand, if the facts are the same except that pursuant to the plans of the defaulting mortgagor, one of the buildings is to contain the furnace and central air conditioning machinery for both buildings A and B, the trust may complete both buildings A and B: *Provided,* That, taken together as a unit, the two buildings meet the more-than-10-percent test.

(5) *Repair and maintenance.* Under this paragraph (e), "construction" does not include—

(i) The repair or maintenance of a building or other improvement (such as the replacement of worn or obsolete furniture and appliances) to offset normal wear and tear or obsolescence, and the restoration of property required because of damage from fire, storm, vandalism or other casualty,

(ii) The preparation of leased space for a new tenant which does not substantially extend the useful life of the building or other improvement or significantly increase its value, even though, in the case of commercial space, this preparation includes adapting the property to the conduct of a different business, or

(iii) The performing of repair or maintenance described in paragraph (e)(5)(i) of this section after property is acquired that was deferred by the defaulting party and that does not constitute renovation under paragraph (e)(2) of this section.

(6) *Independent contractor required.* If any construction takes place on the foreclosure property more than 90 days after the day on which such property was acquired by the trust, such construction must be performed by an independent contractor (as defined in section 856(d)(3) and § 1.856–4(b)(5)(iii)) from whom the trust does not derive or receive any income. Otherwise, the property will cease to be foreclosure property.

(7) *Failure to complete construction.* Property will not cease to be foreclosure property solely because a trust which undertakes the completion of construction of a building or other improvement on the property that was more than 10 percent complete when default became imminent does not complete the construction. Thus, for example, if a trust continues construction of a building that was 20 percent complete when default became imminent, and the trust constructs an additional 40 percent of the building and then sells the property, the property will not lose its status as foreclosure property solely because the trust fails to complete construction of the building.

(f) *Termination of 2-year grace period; use of foreclosure property in a trade or business*—(1) *In general.* Under section 856(e)(4)(C), all real property (and any incidental personal property) for which a particular election has been made (see paragraph (c)(1) of this section) shall cease to be foreclosure property on the first day (occurring more than 90 days after the day on which the trust acquired the property) on which the property is used in a trade or business conducted by the trust, other than a trade or business conducted by the trust through an independent contractor from whom the trust itself does not derive or receive any income. (See section 856(d)(3) for the definition of independent contractor.)

(2) *Property held primarily for sale to customers.* For the purposes of section 856(e)(4)(C), foreclosure property held by the trust primarily for sale to customers in the ordinary course of a trade or business in considered to be property used in a trade or business conducted by the trust. Thus, if a trust holds foreclosure property (whether real property or personal property incident to real property) for sale to customers in the ordinary course of a trade or business more than 90 days after the day on which the trust acquired the real property, the trade or business of selling the property must be conducted by the trust through an independent contractor from whom the trust does not derive or receive any income. Otherwise, after such 90th day the property will cease to be foreclosure property.

(3) *Change in use.* Foreclosure property will not cease to be foreclosure property solely because the use of the property in a trade or business by the trust differs from the use to which the property was put by the person from whom it was acquired. Thus, for example, if a trust acquires a rental apartment building on foreclosure, the property will not cease to be foreclosure property solely because the trust converts the building to a condominium apartment building and, through an independent contractor from whom the trust derives no income, engages in the trade or business of selling the individual condominium units.

(g) *Extension of 2-year grace period*—(1) *In general.* A real estate investment trust may apply to the district director of the internal revenue district in which is located the principal place of business (or principal office or agency) of the trust for an extension of the 2-year grace period. If the trust establishes to the satisfaction of the district director that an extension of the grace period is necessary for the orderly liquidation of the trust's interest in foreclosure property, or for an orderly renegotiation of a lease or leases of the property, the district director may extend the 2-year grace period. See section 856(e)(3) (as in effect with respect to the particular extension) for rules relating to the maximum length of an extension, and the number of extensions which may be granted. An extension of the grace period may be granted by the district director either before or after the date on which the grace period, but for the extension, would expire. The extension shall be effective as of the date on which the grace period, but for the extension, would expire.

(2) *Showing required.* Generally, in order to establish the necessity of an extension, the trust must demonstrate that it has made good faith efforts to renegotiate leases with respect to, or dispose of, the foreclosure property. In certain cases, however, the trust may establish the necessity of an extension even though it has not made such efforts. For example, if the trust demonstrates that, for valid business reasons, construction of the foreclosure property could not be completed before the expiration of the grace period, the necessity of the extension could be established even though the trust had made no effort to sell the property. For another example, if the trust demonstrates that due to a depressed real estate market, it could not sell the foreclosure property before the expiration of the grace period except at a distress price, the necessity of an extension could be established even though the trust had made no effort to sell the property. The fact that property was acquired as foreclosure property prior to January 3, 1975 (the date of enactment of section 856(e)), generally will be considered as a factor (but not a controlling factor) which tends to establish that an extension of the grace period is necessary.

(3) *Time for requesting an extension of the grace period.* A request for an extension of the grace period must be filed with the appropriate district director more than 60 days before the day on which the grace period would otherwise expire. In the case of a grace period which would otherwise expire before August 6, 1976, a request for an extension will be considered to be timely filed if filed on or before June 7, 1976.

(4) *Information required.* The request for an extension of the grace period shall identify the property with respect to which the request is being made and shall also include the following information:

(i) The name, address, and taxpayer identification number of the trust,

(ii) The date the property was acquired as foreclosure property by the trust,

(iii) The taxable year of the trust in which the property was acquired,

(iv) If the trust has been previously granted an extension of the grace period with respect to the property, a statement to that effect (which shall include the date on which the grace period, as extended, expires) and a copy of the

information which accompanied the request for the previous extension.

(v) A statement of the reasons why the grace period should be extended.

(vi) A description of any efforts made by the trust after the acquisition of the property to dispose of the property or to renegotiate any lease with respect to the property, and

(vii) A description of any other factors which tend to establish that an extension of the grace period is necessary for the orderly liquidation of the trust's interest in the property, or for an orderly renegotiation of a lease or leases of the property.

The trust shall also furnish any additional information requested by the district director after the request for extension is filed.

(5) *Automatic extension.* If a real estate investment trust files a request for an extension with the district director more than 60 days before the expiration of the grace period, the grace period shall be considered to be extended until the end of the 30th day after the date on which the district director notifies the trust by certified mail sent to its last known address that the period of extension requested by the trust is not granted. In no event, however, shall the rule in the preceding sentence extend the grace period beyond the expiration of (i) the period of extension requested by the trust, or (ii) the 1-year period following the date that the grace period (but for the automatic extension) would expire. The date of the postmark on the sender's receipt is considered to be the date of the certified mail for purposes of this subparagraph. This subparagraph does not apply, however, if the date of the notification by certified mail described in the first sentence is more than 30 days before the date that the grace period (determined without regard to this subparagraph) expires. Moreover, this subparagraph shall not operate to allow any period of extension that is prohibited by the last sentence of section 856(e)(3) (as in effect with respect to the particular extension).

(6) *Extension of time for filing.* If a real estate investment trust fails to file the request for an extension of the grace period within the time provided in paragraph (g)(3) of this section, then the district director shall grant a reasonable extension of time for filing such request, provided (i) it is established to the satisfaction of the district director that there was reasonable cause for failure to file the request within the prescribed time and (ii) a request for such extension is filed within such time as the district director considers reasonable under the circumstances.

(7) *Status of taxpayer.* The reference to "real estate investment trust" or "trust" in this paragraph (g) shall be considered to include a taxpayer that is not a qualified real estate investment trust, if the taxpayer establishes to the satisfaction of the district director that its failure to be a qualified real estate investment trust for the taxable year was due to reasonable cause and not due to willful neglect. The principles of § 1.856–7(c) and § 1.856–8(d) (including the principles relating to expert advice) shall apply for determining reasonable cause (and absence of willful neglect) for this purpose.

§ 1.856–7 Certain corporations, etc., that are considered to meet the gross income requirements.

(a) *In general.* A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3) of section 856(c), or of both such paragraphs, for any taxable year nevertheless is considered to have satisfied these requirements if the corporation, trust, or association meets the requirements of subparagraphs (A), (B), and (C) of section 856(c)(7) (relating to a schedule attached to the return, the absence of fraud, and reasonable cause).

(b) *Contents of the schedule.* The schedule required by subparagraph (A) of section 856(c)(7) must contain a breakdown, or listing, of the total amount of gross income falling under each of the separate subparagraphs of section 856(c) (2) and (3). Thus, for example, the real estate investment trust, for purposes of listing its income from the sources described in section 856(c)(2), would list separately the total amount of dividends, the total amount of interest, the total amount of rents from real property, etc. The listing is not required to be on a lease-by-lease, loan-by-loan, or project-by-project basis, but the real estate investment trust must maintain adequate records on such a basis with which to substantiate each total amount listed in the schedule.

(c) *Reasonable cause*—(1) *In general.* The failure to meet the requirements of paragraph (2) or (3) of section 856(c) (or of both paragraphs) will be considered due to reasonable cause and not due to willful neglect if the real estate investment trust exercised ordinary business care and prudence in attempting to satisfy the requirements. Such care and prudence must be exercised at the time each transaction is entered into by the trust. However, even if the trust exercised ordinary business care and prudence in entering into a transaction, if the trust later determines that the transaction results in the receipt or accrual of nonqualified income and that the amounts of such nonqualified income, in the context of the trust's overall portfolio, reasonably can be expected to cause a source-of-income requirement to be failed, the trust must use ordinary business care and prudence in an effort to renegotiate the terms of the transaction, dispose of property acquired or leased in the transaction, or alter other elements of its portfolio. In any case, failure to meet an income source requirement will be considered due to willful neglect and not due to reasonable cause if the failure is willful and the trust could have avoided such failure by taking actions not inconsistent with ordinary business care and prudence. For example, if the trust enters into a lease knowing that it will produce nonqualified income which reasonably can be expected to cause a source-of-income requirement to be failed, the failure is due to willful neglect even if the trust has a legitimate business purpose for entering into the lease.

(2) *Expert advice*—(i) *In general.* The reasonable reliance on a reasoned, written opinion as to the characterization for purposes of section 856 of gross income to be derived (or being derived) from a transaction generally constitutes "reasonable cause" if income from that transaction causes the trust to fail to meet the requirements of paragraph (2) or (3) of section 856(c) (or of both paragraphs). The absence of such a reasoned, written opinion with respect to a transaction does not, by itself, give rise to any inference that the failure to meet a percentage of income requirement was without reasonable cause. An opinion as to the character of income from a transaction includes an opinion pertaining to the use of a standard form of transaction or standard operating procedure in a case where such standard form or procedure is in fact used or followed.

(ii) If the opinion indicates that a portion of the income from a transaction will be nonqualifed income, the trust must still exercise ordinary business care and prudence with respect to the nonqualified income and determine that the amount of that income, in the context of its overall portfolio, reasonably cannot be expected to cause a source-of-income requirement to be failed. Reliance on an opinion is not reasonable if the trust has reason to believe that the opinion is incorrect (for example, because the trust withholds facts from the person rendering the opinion).

(iii) *Reasoned written opinion.* For purposes of this subparagraph (2), a written opinion means an opinion, in writing, rendered by a tax advisor (including house counsel) whose opinion would be relied on by a person exercising ordinary business care and prudence in the circumstances of the particular transaction. A written opinion is considered "reasoned" even if it reaches a conclusion which is subsequently determined to be incorrect, so long as the opinion is based on a full disclosure of the factual situation by the real estate investment trust and is addressed to the facts and law which the person rendering the opinion believes to be applicable. However, an opinion is not considered "reasoned" if it does nothing more than recite the facts and express a conclusion.

(d) *Application of section 856(c)(7) to taxable years beginning before October 5, 1976.* Pursuant to section 1608(b) of the Tax Reform Act of 1976, paragraph (7) of section 856(c) and this section apply to a taxable year of a real estate investment trust which begins before October 5, 1976, only if as the result of a determination (as defined in section 859(c)) occurring after October 4, 1976, the trust does not meet the requirements of paragraph (2) or (3) of section 856(c), or both paragraphs, as in effect for the taxable year. The requirement that the schedule described in subparagraph (A) of section 856(c)(7) be attached to the income tax return of a real estate investment trust in order for section 856(c)(7) to apply is not applicable to taxable years beginning before October 5, 1976. For purposes of section 1608(b) of the Tax Reform Act of 1976 and this paragraph, the rules relating to determinations prescribed in § 1.859–2(b)(1) (other than the second sentence and the last sentence of § 859–2(b)(1)(iv)) shall apply. However, a determination consisting of an agreement between the taxpayer and the district director (or other official to whom authority to sign the agreement is delegated) shall set forth the amount of gross income for the taxable year to which the determination applies, the amount of the 90 percent and 75 percent source-of-income requirements for the taxable year to which the determination applies, and the amount by which the real estate investment trust failed to meet either or both of the requirements. The agreement shall also set forth the amount of tax for which the trust is liable pursuant to section 857(b)(5). The agreement shall also contain a finding as to whether the failure to meet the requirements of paragraph (2) or (3) of section 856(c) (or of both paragraphs) was due to reasonable cause and not due to willful neglect.

§ 1.856–8 Revocation or termination of election.

(a) *Revocation of an election to be a real estate investment trust.* A corporation, trust, or association that has made an election under section 856(c)(1) to be a real estate investment trust may revoke the election for any taxable year after the first taxable year for which the election is effective. The revocation must be made by filing a statement with the district director for the internal revenue district in which the taxpayer maintains its principal place of business or principal office or agency. The statement must be filed on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective. The statement must be signed by an official authorized to sign the income tax return of the taxpayer and must—

(1) Contain the name, address, and taxpayer identification number of the taxpayer,

(2) Specify the taxable year for which the election was made, and

(3) Include a statement that the taxpayer, pursuant to section 856(g)(2), revokes its election under section 856(c)(1) to be a real estate investment trust.

The revocation may be made only with respect to a taxable year beginning after October 4, 1976, and is effective for the taxable year in which made and for all succeeding taxable years. A revocation with respect to a taxable year beginning after October 4, 1976, that is filed before February 6, 1981, in the time and manner prescribed in § 7.856(g)–1 of this chapter (as in effect when the revocation was filed) is considered to meet the requirements of this paragraph.

(b) *Termination of election to be a real estate investment trust.* An election of a corporation, trust, or association under section 856(c)(1) to be a real estate investment trust shall terminate if the corporation, trust, or association is not a qualified real estate investment trust for any taxable year (including the taxable year with respect to which the election is made) beginning after October 4, 1976. (This election terminates whether the failure to be a qualified real estate investment trust is intentional or inadvertent.) The term "taxable year" includes a taxable year of less than 12 months for which a return is made under section 443. The termination of the election is effective for the first taxable year beginning after October 4, 1976, for which the corporation, trust, or association is not a qualified real estate investment trust and for all succeeding taxable years.

(c) *Restrictions on election after termination or revocation.*—(1) *General rule.* Except as provided in paragraph (d) of this section, if a corporation, trust, or association has made an election under section 856(c)(1) to be a real estate investment trust and the election has been terminated or revoked under section 856(g)(1) or (2), the corporation, trust, or association (and any successor corporation, trust, or association) is not eligible to make a new election under section 856(c)(1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which the termination or revocation is effective.

(2) *Successor corporation.* The term "successor corporation, trust, or association", as used in section 856(g)(3), means a corporation, trust, or association which meets both a continuity of ownership requirement and a continuity of assets requirement with respect to the corporation, trust, or association whose election has been terminated under section 886(g)(1) or revoked under section 856(g)(2). A corporation, trust, or association meets the continuity of ownership requirement only if at any time during the taxable year the persons who own, directly or indirectly, 50 percent or more in value of its outstanding shares owned, at any time during the first taxable year for which the termination or revocation was effective, 50 percent or more in value of the outstanding shares of the corporation, trust, or association whose election has been terminated or revoked. A corporation, trust, or association meets the continuity of assets requirement only if either (i) a substantial portion of its assets were assets of the corporation, trust, or association whose election has been revoked or terminated, or (ii) it acquires a substantial portion of the assets of the corporation, trust, or association whose election has been terminated or revoked.

(3) *Effective date.* Section 856(g)(3) does not apply to the termination of an election that was made by a taxpayer pursuant to section 856(c)(1) on or before October 4, 1976, unless the taxpayer is a qualified real estate investment trust for a taxable year ending after October 4, 1976, for which the pre-October 5, 1976, election is in effect. For example, assume that Trust X, a calendar year taxpayer, files a timely election under section 856(c)(1) with respect to its taxable year 1974, and is a qualified real estate investment trust for calendar years 1974 and 1975.

Assume further that Trust X is not a qualified real estate investment trust for 1976 and 1977 because it willfully fails to meet the asset diversification requirements of section 856(c)(5) for both years. The failure (whether or not willful) to meet these requirements in 1977 terminates the election to be a real estate investment trust made with respect to 1974. (See paragraph (b) of this section.) The termination is effective for 1977 and all succeeding taxable years. However, under section 1608(d)(3) of the Tax Reform Act of 1976, Trust X is not prohibited by section 856(g)(3) from making a new election under section 856(c)(1) with respect to 1978.

(d) *Exceptions*—Section 856(g)(4) provides an exception to the general rule of section 856(g)(3) that the termination of an election to be a real estate investment trust disqualifies the corporation, trust, or association from making a new election for the 4 taxable years following the first taxable year for which the termination is effective. This exception applies where the corporation, trust, or association meets the requirements of section 856(g)(4)(A), (B) and (C) (relating to the timely filing of a return, the absence of fraud, and reasonable cause, respectively) for the taxable year with respect to which the termination of election occurs. In order to meet the requirements of section 856(g)(4)(C), the corporation, trust, or association must establish, to the satisfaction of the district director for the internal revenue district in which the corporation, trust, or association maintains its principal place of business or principal office or agency, that its failure to be a qualified real estate investment trust for the taxable year in question was due to reasonable cause and not due to willful neglect. The principles of § 1.856–7(c) (including the principles relating to expert advice will apply in determining whether, for purposes of section 856(g)(4), the failure of a corporation, trust, or association to be a qualified real estate investment trust for a taxable year was due to reasonable cause and not due to willful neglect. Thus, for example, the corporation, trust, or association must exercise ordinary business care and prudence in attempting to meet the status conditions of section 856(a) and the distribution and recordkeeping requirements of section 857(a), as well as the gross income requirements of section 856(c). The provisions of section 856(g)(4) do not apply to a taxable year in which the corporation, trust, or association makes a valid revocation, under section 856(g)(2), of an election to be a real estate investment trust.

§ 1.856–9 Election with respect to property held for sale in a taxable year beginning before October 5, 1976.

(a) *In general.* Section 856(a)(4), as in effect with respect to taxable years beginning before October 5, 1976, provided that a real estate investment trust could not hold any property (other than foreclosure property) primarily for sale to customers in the ordinary course of its trade or business. Section 1603 of the Tax Reform Act of 1976 (the Act) repealed the prohibition on holding property primarily for sale to customers, effective for taxable years beginning after October 4, 1976, and imposed the tax on net income from prohibited transactions under section 857(b)(6). Section 1608(d)(2) of the Act provides that if as a result of a determination (as defined in section 859(c)) occurring after October 4, 1976, a real estate investment trust does not meet the requirement of section 856(a)(4) (as in effect before amendment by the Act) for any taxable year beginning before October 5, 1976, the trust may elect to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) of the Act apply with respect to the taxable year.

(b) *Election.* The election provided by section 1608(d)(2) of the Act shall be made by filing a statement with the district director for the internal revenue district in which the taxpayer maintains its principal place of business or principal office or agency. The statement shall be signed by the taxpayer and shall include the following information:

(1) The name, address, and taxpayer identification number of the taxpayer;

(2) The taxable year (or years) to which the election applies;

(3) A statement that the taxpayer, pursuant to section 1608(d)(2) of the Tax Reform Act of 1976, elects to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) of the Act apply to such taxable year (or years); and

(4) A description of the determination and the date upon which the determination became final.

A copy of the closing agreement, the Tax Court decision, the judgement, decree, or other order, or the agreement with the district director (or other official) which constitutes the determination shall be attached to the statement.

(c) *Time for filing the election.* The election must be filed within 60 days after the date of the determination. The date of a determination described in section 859(c) (1) or (2) shall be determined in accordance with section 859(c) and subdivision (i), (ii), or (iii) of § 1.859–2(b)(1). The date of a determination which is an agreement with the district director (or other official) under section 859(c)(3) shall be determined in accordance with paragraph (e) of this section.

(d) *Revocation*—(1) *In general.* An election made by a taxpayer pursuant to section 1608(d)(2) of the Tax Reform Act of 1976 after February 6, 1981 is irrevocable.

(2) *Elections made under temporary regulations.* A taxpayer who has made an election under section 1608(d)(2) of the Act on or before February 6, 1981 in accordance with § 7.0(c)(1) of this chapter may apply to the Commissioner for consent to revoke the election. The application for consent must be filed with the Commissioner after February 6, 1981 and before May 8, 1981.

(e) *Determination* . For purposes of section 1608(d)(2) of the Tax Reform Act of 1976, a determination under section 859(c)(3) may be made by an agreement signed by the district director or such other official to whom authority to sign the agreement is delegated, and by or on behalf of the taxpayer. The agreement shall identify the taxable year (or years) to which it applies and shall state that the taxpayer, during such taxpayer year (or years), held property (other than foreclosure property) primarily for sale to customers in the ordinary course of its trade or business, within the meaning of section 856(c)(4), as in effect before amendment by the Act. The agreement further shall set forth, for each taxable year to which it applies, the amount, if any, of the net income (or net loss) from prohibited transactions, and the amount, if any, of the tax imposed by paragraph (6) of section 857(b). An agreement under this subparagraph shall be sent to the taxpayer at its last known address by either registered or certified mail. If registered mail is used, the date of registration shall be treated as the date of determination. If certified mail is used, the date of the postmark on the sender's receipt shall be treated as the date of determination. However, if the statement described in paragraph (b) of this section is filed by the taxpayer before the registration or postmark date but on or after the date the agreement is signed by the district director (or the other official to whom authority to sign the agreement is delegated), the date of determination shall be the date of signing.

(f) *Rules relating to refunds, credits, assessment, and collection.* In a case

where an election to have section 1603 of the Act apply results in an overpayment of tax, the taxpayer, in order to secure credit or refund of the overpayment, must file a claim on Form 1120X. See section 1608(d)(2) of the Act for special rules relating to the period of limitations on filing the claim and to assessment and collection of any deficiency established by the determination.

§ 1.857 [Removed]

Par. 30. Section 1.857 is removed.

Par. 31. Section 1.857–1 is amended as follows:

1. So much of paragraph (a) as precedes subparagraph (1) is amended by deleting "than section" and by inserting "than sections 856(g), relating to the revocation or termination of an election, and" in lieu thereof.

2. Paragraph (a)(1) is amended to read as set forth below.

3. Paragraph (a)(2) is amended by striking out "§ 1.857–6" and inserting in lieu thereof "§ 1.857–8".

4. Paragraph (b) is amended by striking out "section 857(d)" and inserting in lieu thereof "sections 856(g) and 857(d)" and by striking out "§ 1.857–5" and inserting in lieu thereof "§ 1.857–7".

§ 1.857–1 Taxation of real estate investment trusts.

(a) *Requirements applicable thereto.* * * *

(1) The deduction for dividends paid for the taxable year as defined in section 561 (computed without regard to capital gain dividends) equals or exceeds the amount specified in section 857(a)(1), as in effect for the taxable year; and * * *

* * * * *

§ 1.857–2 [Removed]

Par. 32. Section 1.857–2 is removed.

Par. 33. Section 1.857–3 is redesignated as § 1.857–2 and is revised to read as follows:

§ 1.857–2 Real estate investment trust taxable income and net capital gain.

(a) *Real estate investment trust taxable income.* Section 857(b)(1) imposes a normal tax and surtax, computed at the rates and in the manner prescribed in section 11, on the "real estate investment trust taxable income", as defined in section 857(b)(2). Section 857(b)(2) requires certain adjustments to be made to convert taxable income of the real estate investment trust to "real estate investment trust taxable income". The adjustments are as follows:

(1) *Net capital gain.* In the case of taxable years ending before October 5, 1976, the net capital gain, if any, is excluded.

(2) *Special deductions disallowed.* The special deductions provided in part VIII, subchapter B, chapter 1 of the Code (except the deduction under section 248) are not allowed.

(3) *Deduction for dividends paid*—(i) *General rule.* The deduction for dividends paid (as defined in section 561) is allowed. In the case of taxable years ending before October 5, 1976, the deduction for dividends paid is computed without regard to capital gains dividends.

(ii) *Deduction for dividends paid if there is net income from foreclosure property.* If for any taxable year the trust has net income from foreclosure property (as defined in section 857(b)(4)(B) and § 1.857–3), the deduction for dividends paid is an amount equal to the amount which bears the same proportion to the total dividends paid or considered as paid during the taxable year that otherwise meet the requirements for the deduction for dividends paid (as defined in section 561) as the real estate investment trust taxable income (determined without regard to the deduction for dividends paid) bears to the sum of—

(A) The real estate investment trust taxable income (determined without regard to the deduction for dividends paid), and

(B) The amount by which the net income from foreclosure property exceeds the tax imposed on such income by section 857(b)(4)(A).

For purposes of the preceding sentence, the term "total dividends paid or considered as paid during the taxable year" includes deficiency dividends paid with respect to the taxable year that are not otherwise excluded under this subdivision or section 857(b)(3)(A). The term, however, does not include either deficiency dividends paid during the taxable year with respect to a preceding taxable year or, in the case of taxable years ending before October 5, 1976, capital gains dividends.

(iii) *Deduction for dividends paid for purposes of the alternative tax.* The rules in section 857(b)(3)(A) apply in determining the amount of the deduction for dividends paid that is taken into account in computing the alternative tax. Thus, for example, if a real estate investment trust has net income from foreclosure property for a taxable year ending after October 4, 1976, then for purposes of determining the partial tax described in section 857(b)(3)(A)(i), the amount of the deduction for dividends paid is computed pursuant to paragraph (a)(3)(ii) of this section, except that capital gains dividends are excluded from the dividends paid or considered as paid during the taxable year, and the net capital gain is excluded in computing real estate investment trust taxable income.

(4) *Section 443(b) disregarded.* The taxable income is computed without regard to section 443(b). Thus, the taxable income for a period of less than 12 months is not placed on an annual basis even though the short taxable year results from a change of accounting period.

(5) *Net operating loss deduction.* In the case of a taxable year ending before October 5, 1976, the net operating loss deduction provided in section 172 is not allowed.

(6) *Net income from foreclosure property.* An amount equal to the net income from foreclosure property (as defined in section 857(b)(4)(B) and paragraph (a) of § 1.857–3), if any, is excluded.

(7) *Tax imposed by section 857(b)(5).* An amount equal to the tax (if any) imposed on the trust by section 857(b)(5) for the taxable year is excluded.

(8) *Net income or loss from prohibited transactions.* An amount equal to the amount of any net income derived from prohibited transactions (as defined in section 857(b)(6)(B)(i)) is excluded. On the other hand, an amount equal to the amount of any net loss derived from prohibited transactions (as defined in section 857(b)(6)(B)(ii)) is included. Because the amount of the net loss derived from prohibited transactions is taken into account in computing taxable income before the adjustments required by section 857(b)(2) and this section are made, the effect of including an amount equal to the amount of the loss is to disallow a deduction for the loss.

(b) *Net capital gain in taxable years ending before October 5, 1976.* The rules relating to the taxation of capital gains in 26 CFR 1.857–2(b) (revised as of April 1, 1977) apply to taxable years ending before October 5, 1976.

Par. 34. Sections 1.857–4, 1.857–5, 1.857–6, 1.857–7, 1.857–8 are redesignated as §§ 1.857–6, 1.857–7, 1.857–8, 1.857–9, and 1.857–10, respectively, and new §§ 1.857–3, 1.857–4, and 1.857–5 are inserted immediately after § 1.857–2 (as redesignated by par. 29 of this document), to read as follows:

§ 1.857–3 Net income from foreclosure property.

(a) *In general.* For purposes of section 857(b)(4)(B), net income from foreclosure property means the aggregate of—

(1) All gains and losses from sales or other dispositions of foreclosure

property described in section 1221(1), and

(2) The difference (hereinafter called "net gain or loss from operations") between (i) the gross income derived from foreclosure property (as defined in section 856(e)) to the extent such gross income is not described in subparagraph (A), (B), (C), (D), (E), or (G) of section 856(c)(3), and (ii) the deductions allowed by chapter 1 of the Code which are directly connected with the production of such gross income.

Thus, the sum of the gains and losses from sales or other dispositions of foreclosure property described in section 1221(1) is aggregated with the net gain or loss from operations in arriving at net income from foreclosure property. For example, if for a taxable year a real estate investment trust has gain of $100 from the sale of an item of foreclosure property described in section 1221(1), a loss of $50 from the sale of an item of foreclosure property described in section 1221(1), gross income of $25 from the rental of foreclosure property that is not gross income described in subparagraph (A), (B), (C), (D), or (G) of section 856(c)(3), and deductions of $35 allowed by chapter 1 of the Code which are directly connected with the production of the rental income, the net income from foreclosure property for the taxable years is $40[($100−$50)+($25−$35)].

(b) *Directly connected deductions.* A deduction which is otherwise allowed by chapter 1 of the Code is "directly connected" with the production of gross income from foreclosure property if it has a proximate and primary relationship to the earning of the income. Thus, in the case of gross income from real property that is foreclosure property, "directly connected" deductions would include depreciation on the property, interest paid or accrued on the indebtedness of the trust (whether or not secured by the property) to the extent attributable to the carrying of the property, real estate taxes, and fees paid to an independent contractor hired to manage the property. On the other hand, general overhead and administrative expenses of the trust are not "directly connected" deductions. Thus, salaries of officers and other administrative employees of the trust are not "directly connected" deductions. The net operating loss deduction provided by section 172 is not allowed in computing net income from foreclosure property.

(c) *Net loss from foreclosure property.* The tax imposed by section 857(b)(4) applies only if there is net income from foreclosure property. If there is a net loss from foreclosure property (that is, if the aggregate computed under paragraph (a) of this section results in a negative amount) the loss is taken into account in computing real estate investment trust taxable income under section 857(b)(2).

(d) *Gross income not subject to tax on foreclosure property.* If the gross income derived from foreclosure property consists of two classes, a deduction directly connected with the production of both classes (including interest attributable to the carrying of the property) must be apportioned between them. The two classes are:

(1) Gross income which is taken into account in computing net income from foreclosure property and

(2) Other income (such as income described in subparagraph (A), (B), (C), (D), or (G) of section 856(c)(3)).

The apportionment may be made on any reasonable basis.

(e) *Allocation and apportionment of interest.* For purposes of determining the amount of interest attributable to the carrying of foreclosure property under paragraph (b) of this section, the following rules apply:

(1) *Deductible interest.* Interest is taken into account under this paragraph (e) only if it is otherwise deductible under chapter 1 of the Code.

(2) *Interest specifically allocated to property.* Interest that is specifically allocated to an item of property is attributable only to the carrying of that property. Interest is specifically allocated to an item of property if (i) the indebtedness on which the interest is paid or accrued is secured only by that property, (ii) such indebtedness was specifically incurred for the purpose of purchasing, constructing, maintaining, or improving that property, and (iii) the proceeds of the borrowing were applied for that purpose.

(3) *Other interest.* Interest which is not specifically allocated to property is apportioned between foreclosure property and other property under the principles of § 1.861–8(e)(2)(v).

(4) *Effective date.* The rules in this paragraph (e) are mandatory for all taxable years ending after February 6, 1981.

§ 1.857–4 Tax imposed by reason of the failure to meet certain source-of-income requirements.

Section 857(b)(5) imposes a tax on a real estate investment trust that is considered, by reason of section 856(c)(7), as meeting the source-of-income requirements of paragraph (2) or (3) of section 856(c) (or both such paragraphs). The amount of the tax is determined in the manner prescribed in section 857(b)(5).

§ 1.857–5 Net income and loss from prohibited transactions.

(a) *In general.* Section 857(b)(6) imposes, for each taxable year, a tax equal to 100 percent of the net income derived from prohibited transactions. A prohibited transaction is a sale or other disposition of property described in section 1221(1) that is not foreclosure property. The 100-percent tax is imposed to preclude a real estate investment trust from retaining any profit from ordinary retailing activities such as sales to customers of condominium units or subdivided lots in a development tract. In order to prevent a trust from receiving any tax benefit from such activities, a net loss from prohibited transactions effectively is disallowed in computing real estate investment trust taxable income. See § 1.857–2(a)(8). Such loss, however, does reduce the amount which a trust is required to distribute as dividends. For purposes of applying the provisions of the Code, other than those provisions of part II of subchapter M which relate to prohibited transactions, no inference is to be drawn from the fact that a type of transaction does not constitute a prohibited transaction.

(b) *Special rules.* In determining whether a particular transaction constitutes a prohibited transaction, the activities of a real estate investment trust with respect to foreclosure property and its sales of such property are disregarded. Also, if a real estate investment trust enters into a purchase and leaseback of real property with an option in the seller-lessee to repurchase the property at the end of the lease period, and the seller exercises the option pursuant to its terms, income from the sale generally will not be considered to be income from a prohibited transaction solely because the purchase and leaseback was entered into with an option in the seller to repurchase and because the option was exercised pursuant to its terms. Other facts and circumstances, however, may require a conclusion that the property is held primarily for sale to customers in the ordinary course of a trade or business. Gain from the sale or other disposition of property described in section 1221(1) (other than foreclosure property) that is included in gross income for a taxable year of a qualified real estate investment trust constitutes income from a prohibited transaction, even though the sale or other disposition from which the gain is derived occurred in a prior taxable year. For example, if a corporation that is a qualified real estate

investment trust for the current taxable year elected to report the income from the sale of an item of section 1221(1) property (other than foreclosure property) on the installment method of reporting income, the gain from the sale that is taken into income by the real estate investment trust for the current taxable year is income from a prohibited transaction. This result follows even though the sale occurred in a prior taxable year for which the corporation did not qualify as a real estate investment trust. On the other hand, if the gain is taken into income in a taxable year for which the taxpayer is not a qualified real estate investment trust, the 100-percent tax does not apply.

(c) *Net income or loss from prohibited transactions.* Net income or net loss from prohibited transactions is determined by aggregating all gains from the sale or other disposition of property (other than foreclosure property) described in section 1221(1) with all losses from the sale or other disposition of such property. Thus, for example, if a real estate investment trust sells two items of property described in section 1221(1) (other than foreclosure property) and recognizes a gain of $100 on the sale of one item and a loss of $40 on the sale of the second item, the net income from prohibited transactions will be $60.

Par. 35. Section 1.857–6, as redesignated by paragraph 34 of this document, is amended as follows:

1. The first sentence of paragraph (b) is amended by striking out "an investment trust for" and inserting in lieu thereof "a corporation, trust, or association for".

2. Paragraph (c)(1) is amended by striking out "857(b)(4)" and inserting in lieu thereof "857(b)(7)".

3. Paragraphs (c) (2) and (3) are amended by striking out "857(b)(4)" and inserting in lieu thereof "857(b)(7)".

4. The first sentence of paragraph (e)(1) is amended by striking out "not later than 30 days after the close of its taxable year" and inserting in lieu thereof "within the period specified in section 857(b)(3)(C) and paragraph (f) of this section".

5. Paragraph (e)(1) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

6. The fourth sentence of paragraph (e)(1) is amended by striking out "that such excess was" and inserting in lieu thereof "the net capital gain was".

7. A new sentence is added at the end of paragraph (e)(1) to read as set forth below.

8. A new paragraph (f) is added, to read as set forth below.

§ 1.857–6 Method of taxation of shareholders of real estate investment trusts.

* * * * *

(e) *Definition of capital gain dividend.* (1)(i) * * *

(ii) For purposes of section 857(b(3)(C) and this paragraph, the net capital gain for a taxable year ending after October 4, 1976, is deemed not to exceed the real estate investment trust taxable income determined by taking into account the net operating loss deduction for the taxable year but not the deduction for dividents paid. See example (2) in § 1.172–5(a)(5).

* * * * *

(f) *Mailing of written notice to shareholders*—(1) *General rule.* Except as provided in paragraph (f)(2) of this section, the written notice designating a dividend or part thereof as a capital gain dividend must be mailed to the shareholders not later than 30 days after the close of the taxable year of the real estate investment trust.

(2) *Net capital gain resulting from a determination.* If, as a result of a determination (as defined in section 859(c)), occurring after October 4, 1976, there is an increase in the amount by which the net capital gain exceeds the deduction for dividends paid (determined with reference to capital gains dividends only) for the taxable year, then a real estate investment trust may designate a dividend (or part thereof) as a capital gain dividend in a written notice mailed to its shareholders at any time during the 120-day period immediately following the date of the determination. The designation may be made with respect to a dividend (or part thereof) paid during the taxable year to which the determination applies (including a dividend considered as paid during the taxable year pursuant to section 858). A deficiency dividend (as defined in section 859(d)), or a part thereof, that is paid with respect to the taxable year also may be designated as a capital gain dividend by the real estate investment trust (or by the acquiring corporation to which section 381(c)(25) applies) before the expiration of the 120-day period immediately following the determination. However, the aggregate amount of the dividends (or parts thereof) that may be designated as capital gain dividends after the date of the determination shall not exceed the amount of the increase in the excess of the net capital gain over the deduction for dividends paid (determined with reference to capital gains dividends only) that results from the determination. The date of a determination shall be established in accordance with § 1.859–2(b)(1).

Par. 36. Section 1.857–7(b), as redesignated by paragraph 34 of this document, is amended by adding two new sentences at the end thereof, to read as follows:

§ 1.857–7 Earnings and profits of a real estate investment trust.

* * * * *

(b) * * * For purposes of section 857(d) and this section, if an amount equal to any net loss derived from prohibited transactions is included in real estate investment trust taxable income pursuant to section 857(b)(2)(F), that amount shall be considered to be an amount which is not allowable as a deduction in computing taxable income for the taxable year. The earnings and profits for the taxable year (but not the accumulated earnings and profits) shall not be considered to be less than (i) in the case of a taxable year ending before October 5, 1976, the amount (if any) of the net capital gain for the taxable year, or (ii) in the case of a taxable year ending after December 31, 1973, the amount (if any), of the excess of the net income from foreclosure property for the taxable year over the tax imposed thereon by section 857(b)(4)(A).

§ 1.857–8 [Amended]

Par. 37. Paragraph (e) of § 1.857–8 (as redesignated by paragraph 34 of this document) is amended by deleting "§ 1.857–7" from the second sentence and inserting in lieu thereof "§ 1.857–9".

§ 1.857–9 [Amended]

Par. 38. Paragraph (a) of § 1.857–9 (as redesignated by paragraph 34 of this document) is amended by deleting "§ 1.857–6" and inserting in lieu thereof "§ 1.857–8".

§ 1.857–10 [Amended]

Par. 39. Section 1.857–10 (as redesignated by paragraph 34 of this document) is amended by deleting "§§ 1.857–6 and 1.857–7" and inserting in lieu thereof "§§ 1.857–8 and 1.857–9".

§ 1.858 [Removed]

Par. 40. Section 1.858 is removed.

Par. 41. Section 1.858–1 is amended as follows:

1. Paragraphs (a) and (b) are revised to read as set forth below.

2. Paragraph (d) is amended by adding a new example (3) at the end thereof, to read as set forth below.

3. Paragraph (e) is amended by deleting "paragraph (e) of § 1.857–4" each place it appears and inserting in lieu thereof "paragraph (f) of § 1.857–6".

4. The next to the last sentence of paragraph (e) is amended to areas as set forth below.

§ 1.858-1 Dividends paid by a real estate investment trust after close of taxable year.

(a) *General rule.* Under section 858, a real estate investment trust may elect to treat certain dividends that are distributed within a specified period after the close of a taxable year as having been paid during the taxable year. The dividend is taken into account in determining the deduction for dividends paid for the taxable year in which it is treated as paid. The dividend may be an ordinary dividend or, subject to the requirements of sections 857(b)(3)(C) and 858(c), a capital gain dividend. The trust may make the dividend declaration required by section 858(a)(1) either before or after the close of the taxable year as long as the declaration is made before the time prescribed by law for filing its return for the taxable year (including the period of any extension of time granted for filing the return).

(b) *Election*—(1) *Method of making election.* The election must be made in the return filed by the trust for the taxable year. The election shall be made by treating the dividend (or portion thereof) to which the election applies as a dividend paid during the taxable year of the trust in computing its real estate investment trust taxable income and, if applicable, the alternative tax imposed by section 857(b)(3)(A). (In the case of an election with respect to a taxable year ending before October 5, 1976, if the dividend (or portion thereof) to which the election is to apply is a capital gain dividend, the trust shall treat the dividend as paid during such taxable year in computing the amount of capital gains dividends paid during the taxable year.) In the case of an election with respect to a taxable year beginning after October 4, 1976, the trust must also specify in its return (or in a statement attached to its return) the exact dollar amount that is to be treated as having been paid during the taxable year.

(2) *Limitation based on ernings and profits.* The election provided in section 858(a) may be made only to the extent that the earnings and profits of the taxable year (computed with the application of sections 857(d) and 1.857-7) exceed the total amount of distributions out of such earnings and profits actually made during the taxable year. For purposes of the preceding sentence, deficiency dividends and distributions with respect to which an election has been made for a prior year under section 858(a) are disregarded in determining the total amount of distributions out of earnings and profits actually made during the taxable year. The dividend or portion thereof, with respect to which the real estate investment trust has made a valid election under section 858(a), shall be considered as paid out of the earnings and profits of the taxable year for which such election is made, and not out of the earnings and profits of the taxable year in which the distribution is actually made.

(3) *Additional limitation based on amount specified.* The amount treated under section 858(a) as having been paid in a taxable year beginning after October 4, 1976, cannot exceed the lesser of (i) the dollar amount specified by the trust in its return (or a statement attached thereto) in making the election or (ii) the amount allowable under the limitation prescribed in paragraph (b)(2) of this section.

(4) *Irrevocability of the election.* After the expiration of the time for filing the return for the taxable year for which an election is made under section 858(a), such election shall be irrevocable with respect to the dividend or portion thereof to which it applies.

* * * * *

(d) *Illustrations.* * * *

Example (3). Assume the facts are the same as in example (2), except that the taxable years involved are calendar years 1977 and 1978, and Y Trust specified in its Federal income tax return for 1977 that the dollar amount of $40,000 of the $65,000 distribution payable to shareholders on March 31, 1978, is to be treated as having been paid in 1977. The result will be the same as in example (2), since the amount of the undistributed earnings and profits for 1977 is less than the $40,000 amount specified by Y Trust in making its election. Accordingly, the election is valid only to the extent of $15,000. Y Trust will treat the amount of $15,000 as a distribution, in 1977, of earnings and profits of the trust for the taxable year 1977 and the remaining $50,000 as a distribution, in 1978, of the earnings and profits for 1978.

(e) *Notice to shareholders.* * * * If the notice under section 858(c) reltes to an election with respect to any capital gains dividends, such capital gains dividends shall be aggregated by the real estate investment trust with the designated capital gains dividends actually paid during the taxable year to which the election applies (not including deficiency dividends or dividends with respect to which an election has been made for a prior taxable year under section 858) to determine whether the aggregate of the designated capital gains dividends with respect to such taxable year exceeds the net capital gain of the trust. * * *

Par. 42. New sections 1.859-1, 1.859-2, 1.859-3, 1.859-4, and 1.860-1 are added after section 1.858-1, to read as follows:

§ 1.859-1 Deficiency dividends.

Section 859 provides a method by which a real estate investment trust may be relieved from the payment of a deficiency in (or be allowed a credit or refund with respect to) the tax imposed by section 857(b) (1) or (3), the minimum tax on tax preferences imposed by section 56, or, in the case of a real estate investment trust that fails the distribution requirements of section 857(a)(1), the corporate income tax imposed by section 11(a) or 1201(a). The method provided by section 859 is to allow an additional deduction for a dividend distribution (which meets the requirements of sections 859 and 1.859-2) in computing the deduction for dividends paid for the taxable year for which the deficiency is determined. A deficiency dividend may be an ordinary dividend, or, subject to the limitations of sections 857(b)(3)(C) and 859(d)(2)(B), may be a capital gain dividend.

§ 1.859-2 Requirements for deficiency dividends.

(a) *In general.* A real estate investment trust is allowed a deduction for a deficiency dividend only if there is a determination (as defined in section 859(c) and paragraph (b)(1) of this section) occurring after October 4, 1976, that results in an adjustment (as defined in section 859(b)(1)) for the taxable year with respect to which the deficiency dividend is paid. The deficiency dividend must be paid on, or within 90 days after, the date of the determination and before the filing of a claim under section 859(e) and paragraph (b)(2) of this section. This claim must be filed within 120 days after the date of the determination. The deficiency dividend must be a distribution of property (including money) that would have been properly taken into account in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if the money or other property had been distributed during that taxable year. Thus, for purposes of section 859(d), where the distribution would have been a dividend within the meaning of sections 316(a) and 1.316-1, if it had been made during the taxable year with respect to which the determination applies, the distribution will meet the requirements of section 562(a) (relating to rules applicable in determining dividends eligible for the deduction for dividends paid), even though the distributing

corporation, trust, or association has no current or accumulated earnings and profits for the taxable year in which the distribution is actually made. The amount of the distribution shall be determined under section 301 as of the date of the distribution. The amount of the deduction is subject to the limitations set forth in sections 562 and 859(d)(2) and the regulations thereunder. Thus, in the case of a distribution to an individual shareholder of property (other than money) which has a fair market value in excess of the adjusted basis of the property in the hands of the distributing corporation, trust, or association at the time of the distribution, the amount of the deficiency dividend, for purposes of section 316(b)(3), shall be the amount which would have been a dividend if the property (taking into account its fair market value as of the date of the distribution) had been distributed during the taxable year with respect to which the determination applies, even though the deduction for dividends paid is limited, under § 1.562–1(a), to the adjusted basis of the property. The corporation, trust, or association that pays the deficiency dividends does not have to be a qualified real estate investment trust at the time of payment.

(b) *Determination and claim for deduction*—(1) *Determination.* For purposes of applying section 859(c) and this section, the following rules shall apply:

(i) The date of determination by a decision of the United States Tax Court is the date upon which the decision becomes final, as prescribed in section 7481.

(ii) The date upon which a judgment of a court becomes final, which is the date of the determination in such cases, must be determined upon the basis of the facts in the particular case. Ordinarily, a judgment of a United States district court becomes final upon the expiration of the time allowed for taking an appeal, if no appeal is duly taken within that time. A judgment of the United States Court of Claims becomes final upon the expiration of the time allowed for filing a petition for certiorari if no petition is duly filed within that time.

(iii) The date of determination by a closing agreement, made under section 7121, is the date the agreement is approved by the Commissioner.

(iv) A determination under section 859(c)(3) may be made by an agreement signed by the district director or another official to whom authority to sign the agreement is delegated, and by or on behalf of the taxpayer. The agreement shall set forth the amount, if any, of each adjustment described in subparagraphs (A), (B), and (C) of section 859(b)(1) for the taxable year, the amount of the liability for any tax imposed by section 11(a), 56(a), 857(b)(1), 857(b)(3)(A) or 1201(a) for the taxable year, and the amount of the limitation (determined under section 859(d)(2)) on the amount of deficiency dividends that can qualify as capital gain dividends and ordinary dividends, respectively, for the taxable year. An agreement under this subdivision which is signed by the district director (or other delegate) shall be sent to the taxpayer at its last known address by either registered or certified mail. If registered mail is used, the date of registration shall be treated as the date of determination. If certified mail is used, the date of the postmark on the sender's receipt shall be treated as the date of determination. However, if a dividend is paid by the taxpayer before the registration or postmark date, but on or after the date the agreement is signed by the district director (or other delegate), the date of determination shall be the date of signing.

(2) *Claim for deduction.* A claim for deduction for a deficiency dividend shall be made, with the requisite declaration, on Form 976 and shall contain the following information:

(i) The name, address, and taxpayer identification number of the corporation, trust, or association;

(ii) The amount of the deficiency and the taxable year or years involved;

(iii) The amount of the unpaid deficiency or, if the deficiency has been paid in whole or in part, the date of payment and the amount thereof;

(iv) A statement as to how the deficiency was established (i.e., by an agreement under section 859(c)(3), by a closing agreement under section 7121, or by a decision of the Tax Court or court judgment);

(v) Any date or other information with respect to the determination that is required by Form 976;

(vi) The amount and date of payment of the dividend with respect to which the claim for the deduction for deficiency dividends is filed;

(vii) The amount claimed as a deduction for deficiency dividends;

(viii) If the amount claimed as a deduction for deficiency dividends includes any amount designated (or to be designated) as capital gain dividends, the amount of capital gain dividends for which a deficiency dividend deduction is claimed; and

(ix) Any other information required by the claim form.

A certified copy of the resolution of the trustees, directors, or other authority, authorizing the payment of the dividend with respect to which the claim is filed must accompany the claim. Also, any copy of a court decision, judgment, agreement, or other document required by Form 976 must accompany the claim. The claim, together with the accompanying documents, shall be filed with the district director, or director of the internal revenue service center, with whom the income tax return for the taxable year with respect to which the determination applies was filed. In the event that the determination is an agreement with the district director (or his delegate) described in section 859(c)(3) and paragraph (b)(1)(iv) of this section, the claim may be filed with the district director with whom (or pursuant to whose delegation) the agreement was made.

§ 1.859–3 Intrerest and additions to tax.

(a) *In general.* If a real estate investment trust is allowed a deduction for deficiency dividends, under section 859(b)(2) the tax imposed on the trust by chapter 1 of the Code (computed by taking into account the deduction) for the taxable year with respect to which the deduction is allowed is deemed to be increased by an amount equal to the amount of the deduction. This deemed increase in tax, however, applies solely for purposes of determining the liability of the trust for interest under subchapter A of chapter 67 of the Code and for additions to tax and additional amounts under chapter 68 of the Code. For purposes of applying subchapter A of chapter 67 and chapter 68, the last date prescribed for payment of the deemed increase in tax shall be considered to be the last date prescribed for the payment of tax (determined in the manner provided in section 6601(b)) for the taxable year for which the deduction for deficiency dividends is allowed. The deemed increase in tax shall be considered to be paid as of the date that the claim for the deficiency dividend deduction described in section 859(e) and § 1.850–2(b)(2) is filed.

(b) *Overpayments of tax.* If a real estate investment trust is entitled to a credit or refund of an overpayment of the tax imposed by chapter 1 of the Code for the taxable year for which the deficiency dividend deduction is allowed, then, for purposes of computing interest, additions to tax, and additional amounts, the payment (or payments) that result in the overpayment and that precede the filing of the claim described in section 859(e) will be applied against and reduce the increase in tax that is deemed to occur under section 859(b)(2).

(c) *Example.* This section may be illustrated by the following examples:

Example (1). Corporation X is a real estate investment trust that files its income tax return on a calendar year basis. For its taxable year 1977, corporation X receives an extension of time until June 15, 1978, to file its income tax return. Corporation X does not elect to pay any tax due in installments. On its 1977 income tax return, filed on May 15, 1978, corporation X reports real estate investment trust taxable income (computed without regard to the dividends paid deduction) of $100, a dividends paid deduction of $100, and no tax liability. Following an examination of corporation X's 1977 return, the district director and corporation X enter into an agreement which constitutes a determination under section 859(c)(3). Under the determination (which is dated November 1, 1979), the real estate investment trust taxable income of corporation X (computed without the dividends paid deduction) is increased by $20 to $120. Thus, taking into account the $100 of dividends paid in 1977, corporation X has undistributed real estate investment trust taxable income of $20 as a result of the determination. Corporation X pays a dividend of $20 on November 10, 1979, files a claim for a deficiency dividend deduction of $20 pursuant to section 859(e) with respect to such dividend on November 15, 1979, and is allowed a deficiency dividend deduction of $20 with respect to its taxable year 1977. Corporation X, after taking into account the deduction for deficiency dividends, has no real estate investment trust taxable income and has met the distribution requirements of section 857(a)(1). However, for purposes of section 6601 (relating to interest on underpayment of tax) the tax imposed by chapter 1 of the Code on corporation X for the taxable year 1977 is deemed to be increased by $20 (the amount of the deficiency dividend deduction allowed with respect to the taxable year 1977), and the last date prescribed for payment of the tax is March 15, 1978 (the due date of the return determined without regard to any extension of time). The tax of $20 is deemed to be paid on November 15, 1979, the date the claim for the deficiency dividend deduction is filed pursuant to section 859(e). Thus, corporation X is liable for interest on $20, at the rate established under section 6621, for the period from March 15, 1978, to November 15, 1979. Also for purposes of determining whether corporation X is liable for any addition to tax or additional amount imposed by chapter 68 of the Code (including the penalty prescribed by section 6697) the amount of tax imposed on corporation X by chapter 1 of the Code is deemed to be increased by $20 (the amount of the deficiency dividend deduction allowed), the last date prescribed for payment of such tax is March 15, 1978, and the tax of $20 is deemed to be paid on November 15, 1979. Corporation X, however, is not subject to interest and penalties with respect to the amount of any tax for which it would have been liable under section 11(a), 56(a), 1201(a), or 857(b) had it not been allowed the $20 deduction for deficiency dividends.

Example (2). Assume the facts are the same as in example (1) except that the district director, upon examination of corporation X's income tax return, asserts a deficiency in income tax of $4, based on an asserted increase of $10 in real estate investment trust taxable income, and no agreement is entered into between the parties. Corporation X pays the $4 on June 1, 1979, and files suit for refund in the United States District Court. The District Court in a decision which becomes final on November 1, 1980, holds that corporation X did fail to report $10 of real estate investment trust taxable income and is not entitled to any refund. (No other items of income or deduction is in issue.) Corporation X pays a dividend of $10 on November 10, 1980, files a claim for a deficiency dividend deduction of $10 with respect to such dividend on November 15, 1980, and is allowed a deficiency dividend deduction of $10 for 1977. Assume further that $4 is refunded to corporation X on December 31, 1980, as the result of the $10 deficiency dividend deduction being allowed. Also assume that any assessable penalties, additional amounts, and additions to tax (including the penalty imposed by section 6697) for which corporation X is liable are paid within 10 days of notice and demand, so that no interest is imposed on such penalties, etc. The liability of corporation X for interest for the period March 15, 1978, to June 1, 1979, will be determined with respect to $10 (the amount of the deficiency dividend deduction allowed). The liability of corporation X for interest for the period June 1, 1979 to November 15, 1980, will be determined with respect to $6 ($10 minus the $4 payment). Corporation X will be entitled to interest on the $4 overpayment for the period described in section 6611(b)(2), beginning on November 15, 1980.

§ 1.859-4 Claim for credit or refund.

In a case where the allowance of a deduction for a deficiency dividend results in an overpayment of tax, the taxpayer, in order to secure credit or refund of the overpayment, must file a claim on Form 1120X in addition to the claim for the deduction required under section 859(e). The credit or refund will be allowed as if on the date of the determination two years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

§ 1.860-1 Adoption of or change in annual accounting period.

Under section 860, a real estate investment trust may not change to or adopt any taxable year beginning after October 4, 1976, other than the calendar year.

PART 55—EXCISE TAX ON CERTAIN REAL ESTATE INVESTMENT TRUSTS

Par. 43. Subparts A and B are added to part 55, to read as follows:

Subpart A—Tax on Certain Real Estate Investment Trust Taxable Income Not Distributed During the Taxable Year

§ 55.4981-1 Imposition of excise tax on certain real estate investment trust taxable income not distributed during the taxable year.

Section 4981 imposes an excise tax on a real estate investment trust if the deduction for dividends paid for the taxable year does not equal at least 75 percent of its real estate investment trust taxable income (computed as provided in section 4981) for the taxable year. For purposes of section 4981, the deduction for dividends paid is computed without regard to capital gains dividends (as defined in section 857(b)(3)(C)) and without regard to any dividends actually paid after the close of the taxable year. Thus, dividends considered as paid during the taxable year under section 858 are disregarded. Deficiency dividends (as defined in section 859(d)) paid with respect to the taxable year are also disregarded. The return referred to in the last sentence of section 4981 in the income tax return. Section 4981 applies only to taxable years beginning after December 31, 1979, for which the taxpayer is taxable under Part II of subchapter M of chapter 1 of subtitle A as a real estate investment trust.

Subpart B—Procedure and Administration

§ 55.6001-1 Notice or regulations requiring records, statements, and special returns.

(a) *In general.* Any person subject to tax under chapter 44 of the Code shall keep such complete and detailed records as are sufficient to enable the district director to determine accurately the amount of liability under chapter 44.

(b) *Notice by district director requiring returns, statements, or the keeping of records.* The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for tax under chapter 44.

(c) *Retention of records.* The records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

§ 55.6011-1 General requirement of return, statement, or list

Every person liable for tax under section 4981 shall file an annual return with respect to the tax on the form prescribed by the Internal Revenue Service for such purpose and shall include therein the information required by the form and the instructions issued with respect thereto.

§ 55.6061-1 Signing of returns and other documents.

Any return required to be made by a real estate investment trust with respect to the tax imposed by chapter 44 shall be signed by a person authorized by section 6062 of the Code to sign the income tax return of the real estate investment trust. Any statement or other document required to be made with respect to the tax imposed by chapter 44 shall be signed by the person required or duly authorized to sign in accordance with the regulations, forms, or instructions prescribed with respect to such statement or document. An individual's signature on a return, statement, or other document made by or for the real estate investment trust shall be prima facie evidence that the individual is authorized to sign the return, statement, or other document.

§ 55.6065-1 Verification of returns.

If a return, statement, or other document made under the provisions of chapter 44 or subtitle F or the Code or the regulations thereunder with respect to any tax imposed by chapter 44 of the Code, or the form and instructions issued with respect to such return, statement, or other document, requires that it shall contain or be verified by a written declaration that it is made under the penalties of perjury, it must be so verified by the person or persons required to sign such return, statement, or other document. In addition, any other statement or document submitted under any provision of chapter 44 or subtitle F of the Code or regulations thereunder with respect to any tax imposed by chapter 44 of the Code may be required to contain or be verified by a written declaration that it is made under the penalties of perjury.

§ 55.6071-1 Time for filing returns.

A return required by § 55.6011-1 shall be filed at the time (including any extension of time granted or allowed under section 6081) that the real estate investment trust is required to file its income tax return under section 6012 for the taxable year for which the tax under section 4981 is imposed.

§ 55.6081-1 Extension of time for filing the return.

District directors and directors of service centers are authorized to grant a reasonable extension of time for filing any return, statement, or other document which relates to any tax imposed by chapter 44 and which is required under the provisions of chapter 44 or the regulations thereunder. Extensions of time shall not be granted for more than 6 months. An extension of time for filing a return shall not operate to extend the time for the payment of the tax or any part thereof unless specified to the contrary in the extension. The rules relating to an application for extension in § 53.6081-1(b) of this chapter (relating to foundation excise taxes) shall apply to an application for an extension of time for filing the return of tax imposed by chapter 44. If an extension of time for filing the return is granted, a return shall be filed before the expiration of the period of extension.

§ 55.6091-1 Place for filing chapter 44 tax returns.

Except as provided in § 55.6091-2 (relating to exceptional cases)—

(a) *In general.* Chapter 44 tax returns shall be filed with the district director for the internal revenue district in which is located the principal place of business or principal office or agency of the real estate investment trust.

(b) *Returns filed with service centers or by hand carrying.* Notwithstanding paragraph (a) of this section, unless a return is filed by hand carrying, whenever instructions applicable to chapter 44 tax returns provide that the returns be filed with a service center, the returns must be so filed in accordance with the instructions. Returns which are filed by hand carrying shall be filed with the district director (or with any person assigned the administrative supervision of an area, zone, or local office constituting a permanent post of duty within an internal revenue district of such director) in accordance with paragraph (a) of this section.

§ 55.6091-2 Exceptional cases.

Notwithstanding the provisions of § 55.6091-1, the Commissioner may permit the filing of any chapter 44 tax return in any internal revenue district.

§ 55.6161-1 Extension of time for paying tax or deficiency.

(a) *In general*—(1) *Tax shown or required to be shown on return.* A reasonable extension of the time for payment of the amount of any tax imposed by chapter 44 and shown or required to be shown on any return, may be granted by the district directors at the request of the taxpayer. The period of such extension shall not be in excess of 6 months from the date fixed for payment of such tax.

(2) *Deficiency.* The time for payment of any amount determined as a deficiency in respect of tax imposed by chapter 44 may, at the request of the taxpayer, be extended by the internal revenue officer to whom the tax is required to be paid. The extension may be for a period not to exceed 18 months from the date fixed for payment of the deficiency, as shown on the notice and demand. In exceptional cases, a further extension for a period not in excess of 12 months may be granted. No extension of time for payment of a deficiency shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(3) *Extension of time for filing distinguished.* The granting of an extension of time for filing a return does not operate to extend the time for the payment of the tax or any part thereof unless so specified in the extension.

(b) *Certain rules relating to extension of time for paying income tax to apply.* The provisions of § 1.6161-1 (b), and (c), and (d) of this chapter (relating to a requirement for undue hardship, the application for extension, and payment pursuant to an extension) shall apply to extensions of time for payment of the tax imposed by chapter 44.

§ 55.6165-1 Bonds where time to pay tax or deficiency has been extended.

If an extension of time for payment of tax or deficiency is granted under section 6161, the district director or the director of the service center may, if he deems it necessary, require a bond for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension. However, the bond shall not exceed double the amount with respect to which the extension is granted. For provisions relating to form of bonds, see the regulations under section 7101 contained in Part 301 of this chapter (Regulations on Procedure and Administration).

§ 1.857.6(c)(3) [Amended]

Par. 44. In redesignated § 1.857-6(c)(3) in the Example, second sentence delete "December 1, 1961" and insert "December 31, 1961".

PART 5—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978

Par. 45. Part 5 is amended by adding new § 5.856-1 to read as follows:

§ 5.856–1 Extensions of the grace period for foreclosure property by a real estate investment trust.

(a) *In general.* Under section 856(e), a real estate investment trust ("REIT") may elect to treat as foreclosure property certain real property (including interests in real property), and any personal property incident to such real property, that the REIT acquires after December 31, 1973. In general, the REIT must acquire the property as the result of having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was default (or default was imminent) on a lease of such property (where the REIT was the lessor) or on an indebtedness owed to the REIT which such property secured. Property that a REIT elects to treat as foreclosure property ceases to be foreclosure property with respect to such REIT at the end of a grace period. The grace period ends on the date which is 2 years after the date on which the REIT acquired the property, unless the REIT has been granted an extension or extensions of the grace period. If the grace period is extended, the property ceases to be foreclosure property on the day immediately following the last day of the grace period, as extended.

(b) *Rules for extensions of the grace period.* In general, § 1.856–6(g) prescribes rules regarding extensions of the grace period. However, in order to reflect the amendment of section 856(e)(3) of the Code by section 363(c) of the Revenue Act of 1978, the following rules also apply:

(1) In the case of extensions granted after November 6, 1978, with respect to extension periods beginning after December 31, 1977, the district director may grant one or more extensions of the grace period for the property, subject to the limitation that no extension shall extend the grace period beyond the date which is 6 years after the date the REIT acquired the property. In any other case, an extension shall be for a period of not more than 1 year, and not more than two extensions can be granted with respect to the property.

(2) In the case of an extension period beginning after December 31, 1977, a request for an extension filed on or before March 28, 1980, will be considered to be timely if the limitation on the number and length of extensions in section 856(e)(3), as in effect before the amendment made by section 363(c) of the Revenue Act of 1978, would have barred the extension.

PART 10—TEMPORARY INCOME TAX REGULATIONS UNDER PUBLIC LAW 93–625

§§ 10.1, 10.3 [Removed]

Par. 46. In Part 10 §§ 10.1 and 10.3 are removed.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

§ 7.856(g)–1 [Removed]

Par. 47. In Part 7, § 7.856(g)–1 is removed.

[FR Doc. 81–4343 Filed 2–3–81; 2:23 pm]

BILLING CODE 4830–01–M

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26 CFR Part 150

[LR–4–81]

Windfall Profit Tax; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulation; correction.

SUMMARY: This document corrects an error in the publication of Treasury Decision 7755, a temporary regulation relating to windfall profit tax administrative provisions published at 46 FR 4873, January 19, 1981.

EFFECTIVE DATE: This correction is effective as of the same date as Treasury Decision 7755.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta 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 202–566–3297.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1981, the Federal Register published Treasury Decision 7755 (46 FR 4873) which amended the temporary regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 150). The new temporary regulations related primarily to administrative aspects of the tax. The text of the temporary regulations also served as the text of proposed regulations under 26 CFR Part 51 (46 FR 4950).

Need for Correction

The need for correction arises from the erroneous deletion of a sentence in paragraph (a) of § 150.4997–1. This document corrects the error by adding the deleted sentence.

Drafting Information

The principal author of this correction is David B. Cubeta of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service.

Correction of Treasury Decision

Accordingly, FR Doc. 81–1850 (46 FR 4873) is amended as follows:

In Par. 8 on page 4884, § 150.4997–1 is amended by revising the portion of paragraph (a) that follows subparagraph (2) to read as follows:

§ 150.4997–1 Returns and recordkeeping.

(a) *Returns.* * * *

Every producer taking the net income limitation provided by section 4988(b) into account in making windfall profit tax deposits shall file quarterly and annual statements in accordance with forms and instructions provided for that purpose. See § 150.6076–1 for the rules relating to the time for filing the returns required by this section.

* * * * *

David E. Dickinson,

Acting Director, Legislation and Regulations Division.

[FR Doc. 81–4054 Filed 2–5–81; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 150

[T.D. 7755]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Windfall Profit Tax Administrative Provisions

Corrections

In FR Doc. 81–1850 appearing on page 4873 in the issue of Monday, January 19, 1981, on page 4879, in the second column, the last twenty-six lines (including the stars) should be deleted; in the third column, delete the first nine lines from the top.

BILLING CODE 1505–01–M

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

29 CFR Part 4

Service Contract Act; Labor Standards for Federal Service Contracts

Correction

In FR Doc. 81–1362 appearing on page 4320 in the issue of Friday, January 16, 1981, make the following corrections:

(1) Within paragraph (g) of § 4.4, in the line that is fourth from the top of the

third column of page 4340, ". . . action as on the submitted . . ." should have read ". . . action as indicated on the submitted . . .".

(2) Within paragraph (d)(2) of § 4.6, in the line that is 29th from the bottom of the third column of page 4342, ". . . 4.16(b) of 29 CFR Part 4 . . ." should have read ". . . 4.1b(b) of 29 CFR Part 4 . . .".

(3) At the end of the last sentence of paragraph (a) of § 4.53, appearing in the second column of page 4348, insert close quote marks after ". . . generate truly nationwide competition".

(4) Three lines from the end of paragraph (b) of § 4.107, appearing in the third column of page 4351, delete the comma after the words ". . . benefits to a third party . . .".

(5) In the last sentence of paragraph (a)(1) of § 4.113, appearing in the first column of page 4353, ". . . Also as discussed in subparagraph (2) of this paragraph where the services . . ." should have read ". . . Also, as discussed in paragraph (a)(2) of this section where the services . . .".

(6) In the same section, further down in the same column, in the second line of subparagraph (3)(i) of paragraph (a), ". . . contracts discussed in subparagraph (2) of this part, the Department . . ." should have read ". . . contracts discussed in paragraph (a)(2) of this section, the Department . . .".

(7) In the fifth line of paragraph (b) of § 4.173, appearing in the first column of page 4367, ". . . employee is eligible vacation with pay." should have read "employee is eligible for vacation with pay.".

(8) In subparagraph (4) of § 4.187(b), appearing in the second column of page 4374, "Wages due underpaid on the contract workers have priority . . ." should have read "Wages due workers underpaid on the contract have priority . . .".

BILLING CODE 1505-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Collection of Applicant Data for Affirmative Action Purposes

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim regulations.

SUMMARY: This amendment will permit agencies to collect handicap information from applicants in order to implement and evaluate special recruitment programs undertaken for affirmative action purposes. Specifically, agencies will be allowed to invite applicants, on a voluntary basis, to identify themselves as handicapped and specify the nature of their disabilities. Agencies will be permitted to use this information only for purposes related to affirmative action and equal employment opportunity.

DATES: These interim regulations are effective February 6, 1981. Consideration will be given to written comments or suggestions received on or before April 7, 1981.

ADDRESSES: Address comments to: Treva McCall, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506. Comments will be available for public inspection in the Social Sciences Library, Room 2003, at Equal Employment Opportunity Commission headquarters, 2401 E Street, NW., Washington, D.C. 20506 on Monday through Friday of each week from 9:30 a.m. to 5 p.m., (202) 634–6990.

FOR FURTHER INFORMATION CONTACT: Clayton G. Boyd, Division of Programs for Handicapped Individuals, Office of Government Employment, Room 4208, Equal Employment Opportunity Commission, Attention: Bailey's Crossroads, 2401 E Street, NW., Washington, D.C. 20506, (703) 756–6046.

SUPPLEMENTARY INFORMATION: As part of Reorganization Plan #1 of 1978, the responsibility for enforcing equal employment opportunity in the Federal government for handicapped individuals was transferred from the Civil Service Commission to the Equal Employment Opportunity Commission (EEOC). To provide continuity during the transfer of functions, EEOC adopted the regulations concerning handicap discrimination that previously had been issued by the Civil Service Commission. *See* 43 FR 60901 (December 29, 1978). These regulations originally appeared at 43 FR 12293 (March 24, 1978) and are now codified at 29 CFR 1613.701 through 1613.710.

Also as part of Reorganization Plan #1 of 1978, EEOC assumed responsibility for monitoring Federal affirmative action pursuant to Section 501 of the Rehabilitation Act of 1973, as amended, and Section 403 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974. EEOC recognized the need to focus agency affirmative action efforts on bottom-line results, i.e., increased representation of handicapped individuals in the Federal work force. Agencies therefore were instructed in EEO Management Directive 703, issued December 6, 1979, to develop special recruitment programs and establish goals and timetables for hiring handicapped individuals with specified severe disabilities.

To enable and evaluate affirmative recruitment and hiring, agencies need to identify potential beneficiaries of affirmative action. The type of inquiry allowed by this amendment to the regulations is not to be confused with pre-employment medical examination, which is prohibited except as specified in 1613.706(b). Agencies may invite but must not require applicants to identify themselves as handicapped and specify the nature of their disabilities.

Since EEOC's affirmative action instructions to agencies were widely coordinated with affected agencies at the time EEO Management Directive 703 was developed and since final reports of agency accomplishments for the extended FY 1980 program year (see EEO Management Directive 706, issued July 1, 1980) will be due May 15, 1981, there are compelling reasons for the revisions explained below to be published as interim regulations before further coordination with affected agencies under Executive Order 12067 (3 CFR 206 (1979)). These revisions have been coordinated with the Office of Management and Budget and the Office of Personnel Management.

The Commission has determined that these interim regulations do not require a regulatory analysis under Section 3 of Executive Order 12044.

By virtue of the authority vested in the Commission under Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791; Reorganization Plan #1 of 1978 (43 FR 19087); and Executive Order 12106 (44 FR 1053), the Equal Employment Opportunity Commission hereby publishes the following amendments to its regulations on Equal Employment Opportunity in the Federal Government.

Signed this 3rd day of February 1981.

For the Commission.

Eleanor Holmes Norton,

Chair.

PART 1613—EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Accordingly, 29 CFR Part 1613 is amended by revising Section 706 as explained below:

§ 1613.706 [Amended]

1. The beginning of the first sentence in § 1613.706(a) is revised to read as follows: "Except as provided in paragraphs (b) and (c) of this section * * *"

2. 29 CFR 1613.706(c) is revised to read as follows:

* * * * *

(c) To enable and evaluate affirmative action to hire, place, or advance handicapped individuals, the agency may invite applicants for employment to indicate whether and to what extent they are handicapped, if: (1) The agency states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in conjunction with affirmative action and (2) the agency states clearly that the information is being requested on a voluntary basis, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

* * * * *

3. 29 CFR 1613.706 is revised by adding § 1613.706(d) to read as follows:

* * * * *

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be kept confidential except that: (1) Managers, selecting officials, and others involved in the selection process or responsible for affirmative action may be informed that the applicant is a handicapped individual eligible for affirmative action; (2) supervisors and managers may be informed regarding necessary accommodations; (3) first aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; (4) government officials investigating compliance with laws, regulations, and instructions relevant to equal employment opportunity and affirmative action for handicapped individuals shall be provided information upon request; and (5) statistics generated from information obtained may be used to manage, evaluate, and report on equal employment opportunity and affirmative action programs.

(29 U.S.C. 791, Reorganization Plan #1 of 1978 (43 FR 19807, May 9, 1978), and Executive Order 12106 (44 FR 1053, January 3, 1979))

[FR Doc. 81-4427 Filed 2-5-81; 8:45 am]

BILLING CODE 6570-06-M

Occupational Safety and Health Administration

29 CFR Part 1990

Identification, Classification and Regulation of Potential Occupational Carcinogens; Conforming Deletions

Correction

In FR Doc. 81-1944 appearing at page 4889, in the issue of Monday, January 19, 1981, on page 4893, in the second column,

§ 1990.151 Model emergency temporary standard pursuant to section 6(c) of the Act.

should have read

§ 1990.152 Model emergency temporary standard pursuant to section 6(c) of the Act.

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1048

[Ex Parte No. MC-37 (Sub-No. 32)]

Chicago, IL, Commercial Zone

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; redefinition and expansion of the Chicago, IL, commercial zone.

SUMMARY: By petitions filed separately on April 22, 1980, the City of Zion, IL, and the County of Lake, IL, seek redefinition and extension of the Chicago, IL commercial zone limits which have been defined according to the population-mileage formula set forth in 49 CFR 1048.101. Petitioner proposes to extend the partial exemption under 49 U.S.C. 10526(b)(1) of the Interstate Commerce Act to include all points in Lake County, IL. The present zone, defined by the population-mileage formula, includes those points in Lake County which are within 20 miles of Chicago, approximately one-third of the area of the county. Numerous statements in support of one or both petitions were filed by businesses, local interests, and individuals. Two statements in opposition were filed by motor carrier interests. The regulation set forth below is promulgated pursuant to the Commission's action on these petitions and statements.

EFFECTIVE DATE: March 9, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas J. Barry, (202) 275-7982; or Edward E. Guthrie, (202) 275-7691.

SUPPLEMENTARY INFORMATION: This regulation is issued under the authority of 49 U.S.C. 10321 and 49 U.S.C. 10526(b)(1) (the Interstate Commerce Act) and 5 U.S.C. 553 (the Administrative Procedure Act.)

Accordingly, Part 1048 of Chapter X of Title 49 of the Code of Federal Regulations is supplemented by addition of the following § 1048.19:

§ 1048.19 Chicago, IL.

The zone adjacent to, and commercially a part of Chicago, IL, within which transportation by motor vehicle, in interstate or foreign commerce, not under common control, management, or arrangement for a shipment to or from such zone, is partially exempt from regulation under section 10526(b)(1) of the Interstate Commerce Act (49 U.S.C. 10526(b)(1)), includes and is comprised of all points as follows:

(a) The municipality of Chicago, IL, itself;

(b) All points within a line drawn 20 miles beyond the municipal limits of Chicago;

(c) All points in Lake County, IL.

(d) All of any municipality any part of which is within the limits of the combined area defined in paragraphs (b) and (c) of this section, and

(e) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the municipality included under the terms of paragraph (d) of this section.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-4380 Filed 2-5-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 25
Friday, February 6, 1981

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Contract Modifications and Alternative Bidding Provisions; Proposed Supplement to REA Bulletin 40-6

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to issue a supplement to REA Bulletin 40-6, "Construction Methods and Purchase of Materials and Equipment." This proposed supplement would provide for the owner to set the interest rate for overdue accounts and permit acceptance of alternate bids whereby all or part of the materials to be supplied by a contractor could be paid for by the owner (up to 90 percent of invoice amount) at the time of delivery of those materials to the job site. The bulletin supplement also gives procedures and conditions for prequalification of bidders for contracts.

DATES: Public comments must be received by REA no later than April 7, 1981.

ADDRESS: Submit written comments to the Director, Engineering Standards Division, Rural Electrification Administration, Room 1270-S, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: E. N. Limberger, telephone (202) 447-7040. A Draft Impact Analysis has been prepared and is available from the Director, Engineering Standards Division, at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a supplement to REA Bulletin 40-6, "Construction Methods and Purchase of Materials and Equipment."

The text of the proposed supplement to REA Bulletin 40-6 follows:

"**I. Purpose:** This supplement provides modifications and alternative bid provisions for inclusion in contracts for construction of electric facilities by REA electric borrowers.

"**II. Policy:** REA has determined that certain modifications and alternative bidding provisions to construction contracts are appropriate and will generally result in reduced costs for contract construction. The policy changes are as follows:

"A. *Interest on Overdue Accounts:*

REA Form 200—page 10, Article III, section 1,b; REA Form 257—page 10, Article III, section 1,c and 1,d; REA Form 764—page 16, Article III, section 1,d and 1,e; and REA Form 830, page 18, Article III, section 1,d and 1,e; and REA Form 831—page 18, Article III, section 1,d and 1,e: Replace the specified interest rate with a blank. Prior to issuing the invitation to bidders, the owners shall insert a rate in the blank equal to the lowest "Prime Rate" listed in the "Money Rates" section of the Wall Street Journal on the date such invitation to bid is issued. If no prime rate is published on that date, the last such rate published prior to that date shall be used. The rate must, however, not exceed the maximum allowable rate designated by any applicable state usury law.

"B. *Payment to Contractors for Materials Delivered:*

"When construction is performed under a labor and materials contract, the contractor is responsible for ensuring that sufficient equipment and materials are on hand at the construction site to allow construction to continue to completion in an orderly and expeditious manner. However, under certain circumstances, beyond the control of the contractor, it may be necessary to halt construction for an extended period. When for reasons which are beyond the control and not the fault of the contractor, it becomes necessary to suspend construction for such an extended period, the owner may, at the request of the contractor, consider an amendment to a construction contract providing for the payment to the contractor of 90 percent of the invoice cost to the contractor of the equipment or materials delivered to the project site but not installed, provided the contractor warrants that such materials or equipment are:

"1. Actually on the site of the project and will remain thereon until installed in the project.

"2. In conformance with specifications and not in excess of the quantity required for the project.

"3. Properly stored and protected from weather, theft, and other hazards.

"4. Capable of being easily inventoried as to the original quantity as well as the remaining quantity each month.

"Requests by contractors for such amendments to construction contracts shall be submitted by the contractor to the owner on REA Form 800, copies of which are available from REA. Such requests shall be prepared in triplicate and each copy signed by an authorized officer of the contractor and by an authorized agent of the surety.

"If the owner agrees to the request, the owner shall sign all three copies in the space provided and, if the contract was made subject to REA approval, the owner shall forward all copies to REA for approval.

"Payments under this provision are to be made within thirty days after the final approval of the Form 800 amendments, provided the contractor has submitted proper releases of liens from its supplier covering such equipment and materials. After construction has resumed, as the contractor is paid for monthly estimates of assembly units installed, a deduction should be made equal to the invoice cost of equipment and materials included in such estimates of assembly units installed and for which payment has been made to the contractor pursuant to the Form 800 amendment.

"C. *Payment to Contractors for Bulk Purchases of Material:* When construction is to be performed over an extended period of time, but large quantities of material are to be purchased by the contractor at the beginning of the project (i.e., cable for URD installations), the owner may allow alternate bids providing for the payment to the contractor of 90 percent of the cost of such materials within 30 days of delivery of those materials at the job site. The owner will retain the right to award the contract on the basis of a base bid providing for payment when materials are installed or on the basis of an alternate bid providing for payment

when materials are delivered. The contract must, however, be awarded on the basis of the lowest responsive bid on whichever payment terms the borrower selects. If the borrower chooses to award on the basis of a bid providing for payment when materials are delivered, the successful bidder will be required to execute an REA Form 800. A blank copy of REA Form 800 must be attached to the contract form when soliciting bids on this basis.

If the borrower chooses to solicit bids on the basis of the alternative terms of payment, the following paragraph should be inserted at the end of the Notice and Instructions to Bidders with the appropriate paragraph number:

Proposals are invited on the basis of a base bid which provides for payment for materials as indicated in paragraph —— of this contract form and/or on the basis of an alternate bid which provides for payment to the bidder of 90 percent of the invoice cost of the material upon delivery to the job site and execution of REA Form 800 (attached to this contract form) indicating the bidder's compliance with provisions of that form. The owner may award the contract on either basis. Any other payment terms included in the proposal shall be considered nonresponsive and unacceptable.

If the alternative bid is accepted, the following note must be added to the "Acceptance":

Ninety percent of invoice cost of material is to be paid to the bidder following delivery of material to the job site, upon submission of REA Form 800 and proper releases of liens from all suppliers of such equipment and material to the owner.

"D. *Qualification of Bidders:* It is the responsibility of each REA borrower, with the advice of its engineer, to review the qualifications of prospective bidders for contract construction and for material and equipment supply, and to select those firms best qualified for inclusion on the borrower's list of qualified bidders. Bids may neither be solicited from a prospective bidder nor may any bid be opened unless that bidder has been determined to be a qualified bidder for the proposed contract. In addition to actual knowledge of a firm's capabilities and experience, REA Form 274, 'Bidder's Qualifications,' may be used in obtaining information from propective bidders as necessary."

Items A and C of the above proposed supplement are new policy. Items B and D are basically the same policy as is stated in existing REA Bulletins 81–4:381–6, "Payments to Contractors for Materials Delivered," and 81–8:381–13, "Bidder's Qualifications," respectively, and are included here for purposes of consolidating related policy.

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 be classified "not significant" under those criteria. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: January 30, 1981.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 81-3312 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-23]

Critical Mass Energy Project, et al.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Disposition of Petition for Rulemaking.

SUMMARY: Notice is hereby given that the Nuclear Regulatory Commission has partially granted and partially denied a petition for rulemaking submitted to the Commission by letter dated May 9, 1979, by the Critical Mass Energy Project, *et al.*

The petition proposed amendments to NRC regulations intended to improve licensee and governmental ability to cope with radiological dangers following a nuclear accident.

ADDRESSES: Copies of the petition for rulemaking and the NRC's letter to the petitioner are available for public inspection and copying in the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Frank Lomax, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301) 443–5966.

SUPPLEMENTARY INFORMATION: On May 9, 1979, Michael H. Bancroft, Esq., filed a petition for rulemaking on different aspects of emergency planning. Docket No. PRM–50–23 44 FR 32486 (June 6, 1979). A notice of filing of petition, Docket No. PRM 50–23, and request for comments was published in the **Federal Register** on June 6, 1979. *See* 44 FR 32486. The petition states that ". . . the petitioners hereby renew and supplement a petition on evacuation plans submitted to the NRC by PIRG and 30 other citizen groups on August 6, 1975. The NRC denied the petition on July 7, 1977." 42 FR 36326 (July 14, 1977).

Prior to submission of this petition, the NRC staff had begun a reconsideration of the role of emergency planning in ensuring the continued protection of the public health and safety in areas around nuclear power facilities. The Commission began this reconsideration in recognition of the need for more effective emergency planning and in response to reports issued by responsible offices of government and NRC's Congressional oversight committees.

On July 17, 1979, the Commission published an Advance Notice of Proposed Rulemaking (44 FR 41483) on emergency response plans of State and local governments and NRC licensees. The Critical Mass petition was included by reference in this request for comments and suggestions.

Approximately 90 comment letters were received in response to the notice and the staff analysis of these comments was published in NAUREG–0628 (January 1980).

On December 19, 1979, the Commission published for public comment (44 FR 75167) proposed amendments for the upgrading of its emergency planning regulations. The comments received and the staff's evaluation are summarized in NUREG–0684 (September 1980). In addition, the NRC conducted four Regional Workshops to present the proposed rule changes and solicit comments. These comments are available in NUREG/CP–0011 (April 1980). The staff considered the information received at these workshops and that submitted by the comment letters along with the Critical Mass petition and two other petitions for rulemaking in developing the final rule changes. On June 25, 1980, the Commission invited representatives of the nuclear industry, State and local government, and the public to participate in a meeting on the proposed final rule on emergency preparedness. The petitioners, Critical Mass Energy Project, participated in this meeting. On August 19, 1980, the final rule to upgrade emergency preparedness at nuclear power reactor sites was published (45 FR 55402).

The proposed requirements of the Critical Mass petition were considered in the rulemaking process, and referenced in the Advance Notice of Proposed Rulemaking. Some of the comments received addressed both the Critical Mass petition and the proposed rulemaking. Many portions of the requirements proposed in the petition were incorporated into the final rule; some were not. Thus, the petition was

consolidated into the NRC rulemaking and was effectively granted in part and denied in part. The staff analysis of the petition, below, shows that each proposed requirement was incorporated into the final rule except for the portions in italics. The reasons for not incorporating portions of the proposals are presented in the analysis.

Proposed Requirement 1: Coordinated Offsite Emergency Response Plan

All 10 CFR Part 50 licensees and license applicants shall develop, in coordination with State and local authorities and the NRC, a detailed plan of offsite responses to a nuclear accident. The plan shall include provisions for evacuating the public in times of radiological emergencies and to take other protective action measures to protect the public within 50 miles of the licensed facility. The planned offsite protective actions, including evacuation, shall explicitly take account of the anticipated range of actual or imminent radiation releases and durational, weather, seasonal, and traffic conditions. *Public expenses in formulating the emergency response plan shall be reimbursed by the licensee or license applicant.*

Staff Evaluation

The final rule (45 FR 55402; August 19, 1980) contains all the provisions of this proposed requirement except that portion in italics related to public expense which is not within the scope of the NRC regulatory authority. State and local authorities can, of course, enact legislation to require licensees to pay for emergency preparedness measures and several states have done so, with legislation pending in several more.

Proposed Requirement 2: Tests of the Plan

Before licensing a nuclear power plant, *both* at the *construction and* operating stages, a test of the emergency response plan shall be conducted in cooperation with Federal, State ad local authorites. *In addition to* testing communications, health protection, treatment of injuries, and radiation monitoring, *the test shall include an evacuation drill in which a representative sector of angular width 7°, containing a diverse and significant population, is evacuated to a distance of at least 30 miles.* For operating plants, such tests shall be conducted at least once a year, commencing upon the adoption of this regulation. *All costs of conducting both offsite and onsite tests shall be borne by the licensee or license applicant.*

Staff Evaluation

The final rule requires an exercise of offsite emergency response with participation by State and local agencies each year and with Federal agency participation once every five years. The NRC staff believes that there is no demonstrated need for testing a plan prior to construction because there is normally several years lag between CP and OL stages and testing before the CP stage would not ensure that emergency preparedness is adequate several years later at the OL stage. The risks associated with exercise evacuations of the public argue against public participation in a mock evacuation. In any event, NRC could not order the public to participate in such an exericse. As stated in Proposed Requirement 1, the source of funding for conducting tests is not within the purview of NRC regulatory authority.

Proposed Requirement 3: Offsite Radiological Monitoring

The operator of a nuclear power plant shall maintain a system of offsite radiation detectors to determine the radiation exposure of the public from plant emissions. The system shall be designed, taking account of population distributions and seasonal weather conditions, *so that cumulative doses to the public from accidental releases can be established with an error of less than 30% for the most exposed section of the public within 10 miles of the plant and less thant 50% for those* within 50 miles of the plant. The operator shall assume the costs for this monitoring system and shall operate it, *unless it chooses to delegate operation to a suitably accurate governmental monitoring system.*

Staff Evaluation

The Staff's efforts in revising Reg. Guide 1.97 "Instrumentation For Light-Water-Cooled Nuclear Power Plants To Assess Plant And Environs Conditions During And Following An Accident" have been completed and Revision 2 of the guide was issued December 22, 1980. The revised guide included a provision for monitoring environs radiation and radioactivity and referenced NUREG-0654 "Criteria For Preparation And Evaluation Of Radiological Emergency Response Plans And Preparedness In Support Of Nuclear Power Plants" Rev. 1 November 1980 for developing the range, location and qualification criteria for these monitors.

NRC regulations presently require power reactor oprators to provide for monitoring of the plant environs for radioactivity released from normal operations and postulated accidents (10 CFR Part 50, Appendix A, Criterion 64). Existing environmental monitoring programs at power reactors include the use of direct radiation dosimeters and monitors, air samplers, and sampling of water, milk, and other media which may provide an exposure pathway to humans. The programs are developed taking into account population distribution and weather conditions.

It is unreasonable to require that dose estimates be made with errors of less than 30–50%. Estimates made using the best equipment available may reasonably be expected to have errors of greater than 30–50%. For example, thermoluminescent dosimeters (TLD) are used at all operating reactors to measure offsite radiation exposure. Regulatory guide 4.13 specifies that, under laboratory conditions, 95% of the TLD measurements should be within 30% of the correct exposure after all appropriate corrections are applied. However, this specification applies to radiation exposure of the TLD only. Estimates of actual radiation dose received by people would increase the potential for error, due to additional uncertainties such as time of exposure and shielding by buildings. For example, TLD measurements were used as one source of information for estimating doses received by the public following the Three Mile Island accident. An "Ad Hoc Population Dose Assessment Group" consisting of staff members from NRC, EPA, and the Department of Health, Education and Welfare made four estimates of the population dose resulting from the accident which ranged from 1600 to 5300 person-rem, with the average being 3300 person-rem. The uncertainty of these estimates is greater than 50% and the uncertainties of dose estimates to individuals would be even greater.

NRC licensees are expected to have "quality assurance" programs to assure that their monitoring systems produce reasonably accurate results. The programs include periodic calibration of monitoring equipment and participation in "crosscheck" programs where unknown samples from an independent laboratory are analyzed and the results compared with the correct values. In most cases, licensees' monitoring equipment is capable of producing results within the 30–50% accuracy range requested by the petition. However, as discussed above, population dose estimates based on these measurements cannot always be expected to meet 30–50% error limits. Therefore, the error limits requested by

the petitioner were not adopted as a general requirement.

The suggestion that monitoring functions may be delegated to government agencies was not adopted assuming the petitioner intended "delegation" to mean complete transfer of responsibility. Monitoring can be carried out by organizations other than the licensee (such as contractors) as long as the licensee retains responsibility for assuring the regulatory requirements are met. The staff thinks that public health is best protected if the licensee retains this responsibility because he is subject to direct regulation by NRC.

Proposed Requirement 4: Public Notice and Hearings

Each 10 CFR Part 50 licensee shall distribute *to every residence, business, school and other institution within 50 miles of the facility (with sufficient copies for each person or household unit)* information on *the physical character and development of a large radioactive release, the health dangers of radiation exposure, and an outline of* the emergency response plans which will be put into effect in different hazardous conditions. The public notice shall contain *detailed* information on how people can *best protect their health, how they can* receive bulletins during a radiological emergency, *and what steps and routes they should take if an evacuation is ordered.*

This notice shall be distributed *before the grant of a construction permit or operating license, and thereafter* annually in the case of an operating reactor. *Prior to distribution of each notice specified above, there shall be public hearings, held in the vicinity of the facility, on the emergency response plan. In addition to the distributed information, the licensee shall make available to any member of the public all documents concerning the emergency response plan.*

Staff Evaluation

The final rule requires periodic dissemination of emergency response information to the permanent and transient population within the radius of the plume exposure pathway Emergency Planning Zone (within about ten miles), of a nuclear power reactor. The information required to be made available is how the public will be notified in an emergency and what initial actions the public should take (e.g., listening to a local broadcast station and remaining indoors). Because the exact course of an accident and composition of releases of radioactive material are impossible to predict, hypothetical evacuation or protective action instructions would be of limited value and in some situations might be counterproductive if followed by the public. The local authorities who will issue appropriate public instructions will have current information regarding actual accident conditions on which to base their decisions about the proper protective actions. Interpretation of complex emergency response plans by many individuals, unaware of actual accident conditions, could result in increased risks of radiation exposure and injury due to spontaneous actions (such as unnecessary evacuations through contaminated zones) and could impede implementation of protective actions promulgated by competent authorities. The State, local, and licensee emergency response plans are required to be available in local public document rooms for review by interested members of the general public except for certain information related to notification verification procedures. There is no need to distribute this information prior to construction of a reactor. The frequency of dissemination of this information (usually more often than annually) is dependent on the media chosen by individual licensees. The petitioners did not present any reason for the annual hearings set out in this proposal. The emergency preparedness information is available to the public and is reviewed annually by the licensee and others for needed changes. Any changes made as a result of the annual review are placed in the local public document room for public use. This process offers extensive opportunity for pulic participation in the emergency preparedness program at any nuclear power plant. Since the licensee and local, State, and Federal agencies involved with emergency preparedness at a specific site can be expected to respond appropriately to any substantive issues raised by any member of the public which impacts on the adequacy of the state of emergency preparedness at a site, there is no reason to hold additional federally mandated hearings each year. Therefore, the section in italics related to hearings was not included in the final rule.

Proposed Requirement 5: Consideration of Emergency Protection in Licensing and Siting

Determination that there will be effective emergency protection of the public in the event of large radiation releases shall be a prerequisite to NRC approval of a proposed nuclear reactor site. A finding of effective protection of the public within 50 miles of the proposed site shall take into account population density (resident, occupational, and transient), transportation patterns and areas of congestion, the effectiveness of the emergency plan demonstrated by the test, the vulnerability to long-term radioactive ingestion through food and water, and other relevant factors.

No construction permit shall be issued until the coordinated offsite emergency response plan has been formulated, tested, and demonstrated to be effective. No *construction permit or* operating license shall be issued in a State in which the State's radiological emergency response capability has not been certified effective by the NRC, based on lines of authority and communication, the availability of trained personnel and equipment, and detailed plans for appropriate contingencies, and also based on verification of effectiveness by tests and drills.

Staff Evaluation

The final rule requires an acceptable state of emergency preparedness within about 10 miles of a nuclear power reactor prior to operation for new reactors and within a reasonable period for operating reactors. In addition, the final rule requires that acceptable plans exist to protect the public within 50 miles of a site from contamination of the food chain. It is not necessary to make this finding prior to siting or construction. The NRC rulemaking on reactor siting will, however, address demographic issues related to emergency preparedness and site approval. The rulemaking on siting will also consider the feasibility of all actions outside the facility which may be necessary to protect public health and safety in the event of an accidental release of radioactive material from the facility which may endanger public health and safety.

Proposed Requirement 6: Emergency Response Plans for Existing Reactors and Interim NRC Safety Action

Operators of existing plants shall immediately undertake planning for offsite emergency action to protect the public, in cooperation with appropriate government officials. The plan shall be formulated *and tested (including an evacuation drill)* within six months of the promulgation of this regulation.

The NRC will immediately undertake an analysis of the operating nuclear reactors to determine which present the greatest risk to the public from accidental release of radioactivity. To determine the order of priority for interim safety actions, this analysis

shall include the safety record of the plant (including the frequency of violations of NRC regulations, radiation exposure of workers, releases of radiation to the environment, the NRC's perception of the technical proficiency of the licensee's staff, and any design, construction, operational or generic deficiencies known to the NRC), adequacy of existing emergency plans, population density and other factors affecting the feasibility of evacuation, and the existence and capability of State and local radiological emergency plans and personnel. Having determined the plants in need of highest priority attention, the NRC will take prompt action to increase the safety of the plants and improve the efficacy of the emergency plans. In addition to assisting the licensee in making these improvements, the NRC will consider interim steps to protect the public, including prompt testing of existing emergency plans and derating or closing down the plant until improvements are made.

Staff Evaluation

The petitioners requested a complex and potentially time consuming analysis to set the order of priority in which the adequacy of emergency preparedness at operating nuclear power reactor sites would be reviewed. The priority of actions to be undertaken in upgrading emergency preparedness at nuclear power sites was set forth in a staff paper, "To inform the Commission of the staff's plans to take immediate steps to improve licensee preparedness at all operating power plants," SECY 79-450, July 23, 1979, which is available in the NRC Public Document Room. As presented in this document, it was the staff's judgment that the NRC Emergency Preparedness Evaluation Team visits, which were completed for all operating power reactor sites by May of 1980, should be completed in a timely fashion to insure immediate improvements at sites having inadequate emergency preparedness. The team visits began with near term operating license plants and those having high population density near the sites. This represented a simple, effective ordering of site reviews which did not consume either personnel resources or time.

In addition, the staff performed site reviews similar to those requested by the petitioners for those reactor sites which were considered—because of high population density—to have the greatest risk to the public. These reviews were reported in NUREG-0715, which is also available in NRC Public Document Room.

The italicized portions of the petitioners proposed requirement which dealt with setting the order of priority of NRC staff reviews of emergency preparedness at operating nuclear power reactors were considered by the staff but were not adopted for the above reasons. The italicized portion referring to evacuation drills was not included in the final rule because it is not within the purview of NRC regulatory authority.

Additional Information: Additional information related to the rulemaking on emergency preparedness is available in the following:

Advance Notice of Proposed Rulemaking, 44 FR 41483 (July 17, 1979)

NUREG-0628, NRC Staff Preliminary Analysis of Public Comments on Advance Notice of Proposed Rulemaking on Emergency Planning (January 1980)

NUREG/CP-0011, Proceedings of Workshops on Proposed Rulemaking on Emergency Planning for Nuclear Power Plants (January 1980)

Notice of Proposed Rulemaking—Amendments to 10 CFR Parts 50 and 70 44 FR 54308 (September 19, 1979)

Notice of Proposed Rulemaking—Emergency Preparedness, 44 FR 75167 (December 19, 1979)

NUREG-0684, Summary of Public Comments and NRC Staff Analysis Relating to Rulemaking on Emergency Planning for Nuclear Power Plants (September 1980)

Final Rule, Emergency Planning, 45 FR 55402 (August 19, 1980).

Dated at Washington, DC, this 30th day of January, 1981.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-4409 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

Public Conference Concerning the Establishment of a Mechanism for Entitlements Adjustments for Periods Prior to Crude Oil Decontrol

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Public Conference.

SUMMARY: The Economic Regulatory Administration ("EPA") of the Department of Energy ("DOE") will hold a conference on February 11, 1981, beginning 9:30 a.m., e.s.t., in Room GE-086 Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. The purpose of the conference is to assist ERA in the implementation of the recent executive order providing for the immediate decontrol of crude oil and petroleum products. The executive order provides that the Secretary of Energy may promulgate entitlements notices for periods prior to this Order. ERA requests comments and suggestions as to what actions are necessary or appropriate to provide for adjustments to the entitlements program for periods prior to decontrol.

DATES: Conference date: February 11, 9:30 a.m. Telephone requests to speak by 4:30, February 9, 1981; Notification of request to speak by 4:30 p.m., February 10, 1981; Written Comments by February 13, 1981.

ADDRESSES: Conference: Room GE-086, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.; Comments should be directed to Office of Public Hearings Management, Economic Regulatory Administration, Room B-210, Box XX, 2000 M Street, N.W., Washington, D.C. 20461. All requests to speak should be by telephone to Dorothy Hamid, Office of Public Hearings Management, at (202) 653-3988 or 653-3971.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055.

Cynthia Ford (Public Hearings), Economic Regulatory Administration, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3971.

SUPPLEMENTARY INFORMATION: ERA is convening this conference pursuant to 10 CFR 205.171 and paragraph 26 of DOE Delegation Order No. 0204-4. The Delegation Order authorizes the Administrator of ERA to conduct conferences, hearings or public hearings with respect to the functions delegated thereby. The presiding ERA official will be authorized to conduct the conference in a fashion that will, in his or her judgment, facilitate the orderly presentation of interested parties' oral statements. All interested persons are requested to present views as to the issue or issues involved, which may be subject to time limitations if so specified by the presiding ERA official.

This conference will be open to the public. Any person who wishes to make an oral statement at the conference must give notice thereof in the manner specified in the "Addresses" section of this notice by February 9, 1981. This

notice should identify a person (with address and telephone number) to accept ERA acknowledgement of the request to speak. ERA reserves the right to restrict the number of such persons to be heard and to establish procedures governing the presentation of such oral statements.

Any person who wishes to file written comments with ERA will be permitted to do so, either before or after the conference. However, all comments must be sent to the Office of Public Hearings Management at the above address before February 13, 1981. Any information or data considered confidential by the person furnishing it must be identified on a second copy thereof. All comments (with confidential material excluded) received by ERA will be available for public inspection in the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays, and at the Office of Public Information, Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C.

A transcript of the conference will be made, and it will be available for public review and copying at the Freedom of Information Public Reading Room and at the Economic Regulatory Administration's Office of Public Information at the above addresses between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on February 3, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 81–4454 Filed 2–5–81; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 351

[Docket No. 80N–0280]

Vaginal Contraceptive Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Proposed Rulemaking

Correction

In FR Doc. 80–38360, published at page 82014, on Friday, December 12, 1980, make the following corrections:

(1) On page 82015, in the second column, the twelth line from the bottom "William H. Pearlman, M.D." should be corrected to read "William H. Pearlman, Ph. D.".

(2) On page 82034, in the third column in the first full paragraph, in the sixteenth line "group (S group)" should be corrected to read "group (Sμ group)".

(3) Also on page 82034, in the third column, in the first paragraph, in the twenty-fourth line "S_1 and S_1" should be corrected to read "S_1 and Sμ".

(4) On page 82037, in the second column, in the second full paragraph, in the twenty-first line "105.85ug" should be corrected to read "105.85μg".

(5) And on page 82047, in the first column, in the first paragraph under § 351.10, in the fourth line, "concentration which, meets" should be corrected to read "concentration which, as a minimum, meets".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue service

26 CFR Part 51

[LR–48–80]

Windfall Profit Tax; Correction

For a document correcting T.D. 7755, a temporary regulation relating to windfall profit tax administrative provisions published at 46 FR 4873, January 19, 1981, see FR Doc. 81–4054 appearing in the Rules and Regulations section of this issue. The text of the temporary regulation serves as the text of the notice of proposed rulemaking (46 FR 4950, January 19, 1981) and comments were requested.

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2510

Definitions and Coverage Under the Employee Retirement Income Security Act of 1974; Proposed Regulation Relating to Supplemental Payments; Republication

Note.—This document originally appeared in the **Federal Register** for Tuesday, January 27, 1981 (46 FR 8571). It is reprinted in this issue in its entirety at the request of the Department of Labor in order to correct typographical errors.

AGENCY: Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation which provides guidance on the scope of the term "pension plan" under the Employee Retirement Income Security Act of 1974 (the Act), as amended by the Multiemployer Pension Plan Amendments Act of 1980. The regulation would enable employers to make certain voluntary payments to former employees under a welfare plan rather than under a pension plan to help offset the effects of inflation on pension benefits.

DATES: Written comments concerning the proposed regulation must be received by the Department of Labor (the Department) on or before March 30, 1981. Except as otherwise indicated, the regulation is proposed to be effective as of September 26, 1980, which is the applicable effective date of the Multiemployer Pension Plan Amendments Act of 1980.

ADDRESS: Interested persons are invited to submit written comments concerning the proposal to: Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Supplemental payment regulation. All submissions will be opened to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Ave., NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. R. F. Nuissl, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C., telephone (202) 523–8671. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department proposes to amend Part 2510 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding a new paragraph (g) to § 2510.3–2. The proposed regulation is discussed below.

A. Need for the Regulation

The broad definition of the terms "employee pension benefit plan" and "pension plan" in section 3(2)(A) of the Act encompasses any plan, fund or program established by an employer which provides retirement income to employees. In general, therefore, payments by employers to supplement the pension benefits of their retirees ("supplemental payments") fall within the definition of those terms. During the present period of high inflation, many retired persons living on fixed incomes have been confronted with severe financial problems. As noted by the Senate Finance Committee and the Senate Labor and Human Resources Committee, many employers feel an

obligation to help ease those problems by supplementing the pension benefits of retirees on a voluntary basis. See the Joint Explanation of Senate Bill 1076 (the Joint Explanation) by the Senate Finance Committee and the Senate Labor and Human Resources Committee, Congressional Record, S 10130, July 29, 1980. However, employers are sometimes not prepared to supplement retirees' pension benefits if in doing so they must comply with all the requirements of the Act which are applicable to pension plans.

B. Multiemployer Pension Plan Amendments Act of 1980

To assist employers in supplementing the pension benefits of retirees, section 409 of the Multiemployer Pension Plan Amendments Act of 1980 (the MPPAA, Pub. L. 96-364) amended the Act by adding section 3(2)(B), which, among other things, authorizes the Secretary of Labor to issue regulations treating supplemental payment arrangements as welfare plans rather than pension plans if a principal effect of the arrangements is not to evade the standards or purposes of the Act applicable to pension plans. Section 3(2)(B)(ii) of the Act specifically limits such treatment to arrangements under which the pension benefits of retirees and their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement. In response to this clear expression of legislative concern, the Department proposes to exercise its authority under section 3(2)(B) of the Act to prescribe the circumstances in which employers may make voluntary payments under a welfare plan to supplement the pension benefits of retirees.

C. Discussion of Conditions

Supplemental payments which would otherwise be considered to be made under a pension plan would be made under a welfare plan if they meet the conditions of proposed regulation § 2510.3-2(g)(1). Those conditions are designed to satisfy the statutory requirement that welfare plan treatment not be available for a supplemental payment arrangement if a principal effect of the arrangement is to evade the standards or purposes of the Act applicable to pension plans.

The legislative history of this requirement makes it clear that Congress expected the Department to implement its authority under section 3(2)(B) of the Act by issuing regulations which consider the level of supplemental benefits when compared to retirees' total retirement benefits. See the Joint Explanation, Congressional Record, S 10130, July 29, 1980. The Senate Committees specifically noted in the Joint Explanation that they expected the Department's regulations to treat as welfare plans arrangements where, for example, an employer pays monthly supplemental amounts to a retiree based on a formula amounting to 3 percent, multiplied by the retiree's monthly pension benefit, multiplied by the number of years that the retiree's pension benefit has been in pay status.

Under the formula contained in the Department's proposal, a monthly payment made under a supplemental payment welfare benefit plan may not exceed an amount equal to the payee's monthly pension benefit multiplied by the sum of specific percentages for each year of retirement, provided that the sum of these yearly percentages may not exceed a percentage equal to the cost of living increase since the participant's retirement. These annual percentages each equal the higher of 3 percent or one third of the percentage increase in the cost of living for that year. Accordingly, a supplemental payment based in part upon a factor of 3 percent for a particular year may be made under a welfare plan even though the cost of living for that year increases by less than 3 percent or does not increase at all. This formula is intended to lessen the likelihood that too large a percentage of a retiree's retirement income will consist of discretionary payments which are not afforded the protections of a pension plan. Employers are not precluded however, from providing further pension benefit adjustments under their pension plans.

D. Arrangements for Pre-Act Retirees

As presently in effect, regulation 29 CFR 2510.3-2(e) (40 FR 34526, August 15, 1975) describes certain kinds of arrangements which the Department does not regard as employee benefit plans for purposes of Title I of the Act. Specifically, that regulation applies to arrangements providing for voluntary, gratuitous payments by employers to former employees who retired before September 2, 1974. If proposed regulation 29 CFR 2510.3-2(g) is adopted, both it and regulation section 29 CFR 2510.3-2(e) will be avialable with respect to arrangements for pre-Act retirees.

E. Temporary Safe Harbor for Arrangements Concerning Pre-1977 Retirees

The Department has taken the position in several advisory opinions that payments outside a pension plan for persons who retired prior to the end of 1976 (pre-1977 retirees) do not constitute an employee benefit plan so long as certain criteria are met. See also News Release USDL 76-707 (April 26, 1976).

As a result of the enactment of section 409 of the MPPAA, the Department is reexamining its positions with respect to the status of supplemental retirement income arrangements for pre-1977 retirees. The Department has incorporated the substance of its prior positions with respect to payments to pre-1977 retirees which were not described in 29 CFR 2510.3-2(e) into proposed regulation section 29 CFR 2510.3-2(g)(2) as a temporary safe harbor from coverage under Title I of the Act for payments made before January 1, 1982 to pre-1977 retirees. The Department contemplates that its previous views on the status of those payments will not apply after December 31, 1981.

F. Reporting and Disclosure

The Department recognizes that certain reporting and disclosure requirements of part 1 of Title I of the Act may not necessarily be appropriate to employee welfare benefit plans which provide exclusively supplemental payment benefits. Accordingly, the Department has under consideration the development of a regulation which would provide an exemption from certain reporting and disclosure requirements for supplemental payment plans maintained in accordance with the provisions of proposed regulation 29 CFR 2510.3-2(g). The Department expects to publish a notice of proposed rulemaking in this regard in the near future.

G. Classification

The Department has determined that this proposed regulation is a "significant" regulation with the meaning of the Department's Guidelines for improving Government regulations (44 FR 5570, January 26, 1979), issued to implement Executive Order 12044 (44 FR 12661, March 24, 1978). Because the Department has determined that this regulation is not "major" within the meaning of the Guidelines, a regulatory analysis, as described in Executive Order 12044, is not required.

H. Economic Impact on Small Entities

The Regulatory Flexibility Act (the RFA, Pub. L. 96-354, 5 U.S.C. 601-612) requires that an agency prepare and make available for public comment an initial regulatory flexibility analysis whenever it is required to publish a general notice of proposed rulemaking

for any proposed rule. The purpose of the analysis is to describe the impact of the proposed rule on "small entities," as defined in 5 U.S.C. 601(6). That definition incorporates the terms "small business" and "small organization," as defined in the RFA. However, in order to avoid unnecessary analyses, the RFA also provides that an analysis is not required if the head of the agency certifies that a proposed rule will not, if adopted, have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605.

The term "small entity," as applied to "small businesses" and "small organizations" is defined in the RFA to mean, unless an agency establishes otherwise, a business or not-for-profit enterprise which is independently owned and operated and which is not dominant in its field. That definition will apply to this certification, because the Department has not yet established an alternative definition and because the Department believes that whatever alternative definition it ultimately may develop for purposes of administering the Act (if it should choose to establish an alternative definition) would not affect the certification. The Department further believes that it would not be in the best interests of retirees generally to delay this notice of proposed rulemaking until a decision is made on whether to establish an alternative definition in accordance with the procedures set forth in 5 U.S.C. 601.

Under the authority granted in 5 U.S.C. 605 and for the reasons set forth below, it is hereby certified that the proposed regulation contained in this notice will not, if adopted, have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required in connection with the proposal.

The reasons for the certification are as follows. Employers wanting to supplement the pension benefits of retirees in order to help offset the effects of inflation may presently do so by raising the benefit levels under the pension plans which they sponsor. The proposed regulation provides employers of all sizes and types with an alternative and voluntary way of supplementing pension benefits. Specifically, if the regulation is adopted, employers will have the option of supplementing the pension benefits of retirees under a welfare plan. Presently there is no way of supplementing pension benefits outside of a pension plan for post-1976 retirees (with the limited exception of unfunded arrangements for a select group of management or highly compensated employees). Furthermore, it is the understanding of the Department that very few small entities have supplemental payment arrangements currently in effect for pre-1977 retirees. Because small entities will be free not to choose this optional way of supplementing the pension benefits of retirees, the proposed regulation will not impose any involuntary burden on them and will further impose no expense upon them unless they are in the extremely limited group of small entities which have adopted a supplemental payment plan in accordance with News Release USDL 76-707, in which case there may be a marginal economic cost for those few small entities.

I. Drafting Information

The principal author of this proposed regulation is Mr. R. F. Nuissl of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs. However, others in the Department participated in developing the proposed regulation, both on matters of substance and style.

J. Statutory Authority

The regulation is proposed under sections 3(2) and 505 of the Act (29 U.S.C. 1002(2) and 1135).

K. Proposed Regulation

For the reasons set out in the preamble, the Department proposes to amend Part 2510 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding a new paragraph (g) to § 2510.3-2 to read as follows:

§ 2510.3-2 Employee pension benefit plan.

* * * * *

(g) *Supplemental payment plans*—(1) *General rule.* Generally, an arrangement by which a payment is made by an employer to supplement retirement income is an employee pension benefit plan. Under the authority granted in section 3(2)(B) of the Act, effective September 26, 1980 a supplemental payment plan shall be treated as a welfare plan rather than a pension plan for purposes of Title I of the Act if all of the following conditions are met.

(i) Payment is made out of the general assets of the employer for the purpose of supplementing the pension benefits of a participant of his or her beneficiary.

(ii) The employer is not obligated to continue the arrangement or to make the payment or similar payments for more than twelve months at a time.

(iii) No payment is made under the arrangement until a date two years or more after the beginning of the first month for which the pension benefit of the participant or his or her beneficiary was in pay status.

(iv) The amount payable under the supplemental payment plan to a participant or his or her beneficiary with respect to a month does not exceed the payee's supplemental payment factor ("SPF" as defined in paragraph (g)(3)(i) of this section) for that month, provided however that monthly amounts may be cumulated and paid in subsequent months to the participant or his or her beneficiary.

(2) *Temporary safe harbor for arrangements concerning pre-1977 retirees.* (i) Notwithstanding paragraph (g)(1) of this section, effective January 1, 1975 an arrangement by which a payment is made prior to January 1, 1982 by an employer to supplement the retirement income of a former employee who separated from the service of the employer prior to January 1, 1977 shall be deemed not to have been made under an employee benefit plan if all of the following conditions are met:

(A) The employer is not obligated to make the payment or similar payments for more than twelve months at a time.

(B) The payment is made out of the general assets of the employer.

(C) The former employee is notified in writing at least once each year in which such a payment is made that the payments are not obligatory on the part of the employer and are not part of an employee benefit plan subject to the protections of the Act.

(ii) A person who receives a payment on account of his or her relationship to a former employee who retired prior to January 1, 1977 is considered to be a former employee for purposes of this paragraph (g)(2).

(3) *Definitions.* For purposes of this paragraph (g)—

(i) The term "supplemental payment factor" ("SPF") means, as to any particular month, an amount which is derived by multiplying (A) the amount of participant or beneficiary's pension benefit amount (as defined in paragraph (g)(3)(ii) of this section) for that month, by (B) the sum of the index level percentages (as defined in paragraph (g)(3)(iii) of this section) for each calendar year or part thereof with respect to which the participant and his or her beneficiary have received pension benefits, provided however that this sum may not exceed the maximum cost of living increase (as defined in paragraph (g)(3)(iv) of this section) for that month.

(ii) The term "pension benefit amount" ("PBA") means, as to any particular month, the amount of pension benefits payable in the form of an annuity to a participant or his or her

beneficiary for that month under all pension plans sponsored by an employer.

(iii) The term "index level percentage" ("ILP") means: 3% for years before 1880; 4% for the year 1980; and, for years after 1980, a percentage equal to the higher of 3% or the following fraction (rounded off to the nearest full percentage):

$$\frac{CPIU_2 - CPIU_1}{3\ CPIU_1},$$

where $CPIU_2$ = the average CPIU for the immediately preceding calendar year, and $CPIU_1$ = the average CPIU for the year before that. The term "CPIU" is defined in paragraph (g)(3)(v) of this section.

(iv) The term "maximum cost of living increase" means, as to any month, a percentage equal to the following (rounded off to the nearest full percentage):

$$\frac{CPIU_2 - CPIU_r}{CPIU_r},$$

where $CPIU_2$ = the average CPIU for the immediately preceding calendar year, and $CPIU_r$ = the average CPIU for the calendar year in which the participant retired.

(v) The term "CPIU" means the U.S. City Average All Items Consumer Price Index for All Urban Consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics. Data concerning the average CPI–U for a particular year can be obtained by asking the U.S. Department of Labor, Bureau of Labor Statistics, Division of Consumer Prices and Price Indexes, Washington, D.C. 20212.

(4) *Examples.* The following examples illustrate how this paragraph (g) works. Assume that the SPF for each month in these examples is computed on the basis of a percentage which is less than the maximum cost of living increase for that month, within the meaning of paragraph (g)(3)(iv) of this section.

Example (1). E, an employer, decides to make a payment to R for September 1982 under a supplemental payment welfare benefit plan. R has been receiving monthly benefits of $500 in the form of an annuity under E's defined benefit pension plan since retirement from E on July 1, 1977. In addition, throughout 1982 R receives monthly benefits of $300 paid by the Social Security Administration. The average CPIU for 1977 = 181.5. The average CPIU for 1979 = 217.4. Assume for the purpose of this example that the average CPIU for 1980 = 250.0 and that the average CPIU for 1981 = 272.0. R's SPF for September 1982 = $105, computed as follows:

(1) PBA for September 1982 = $500.

(2) ILP for 1981 =

$$\frac{250.0 - 217.4}{3(217.4)} =$$

.0499 = 5% (rounded off).

(3) ILP for 1982 =

$$\frac{272.0 - 250.0}{3(250.0)} =$$

.0293 = 3% (rounded off).

(4) SPF = PBA × [sum of ILP's for the years 1977 through 1982] = $500 × [3% + 3% + 3% + 4% + 5% + 3%] = 105. If E's supplemental payment to R with respect to September 1982 does not exceed $105 and if the other conditions of paragraph (g)(1) of this section are met, the payment will be treated as made under a welfare plan rather than under a pension plan.

Example (2). Assume the same facts as those in Example (1), except that E, having not made any previous payments to R under its supplemental payment plan, decides to make a lump sum supplemental payment to R with respect to all months of R's retirement from July 1, 1977 through September 30, 1982. The maximum aggregate amount of the lump sum supplemental payment E may make to R with respect to this period is $3795, computed as follows:

(1) PBA for each month between July 1, 1977 and September 30, 1982 = $500.

(2) Maximum for six months of 1977 = SPF for each month in 1977 × number of months R received pension benefits in 1977 = $15 × 6 = $90, where SPF for each month in 1977 = PBA × ILP for 1977 = $500 × 3% = $15.

(3) Maximum for 1978 = SPF for each month in 1978 × number of months R received pension benefits in 1978 = $30 × 12 = $360, where SPF for each month in 1978 = PBA × [sum of ILP's for 1977 and 1978] = $500 × [3% + 3%]$30.

(4) Maximum for 1979 = SPF for each month in 1979 × number of months R received pension benefits in 1979 = $45 × 12 = $540, where SPF for each month in 1979 = PBA × [sum of ILP's for the years 1977 through 1979] = $500 × [3% + 3% + %] = $45.

(5) Maximum for 1980 = SPF for each month in 1980 × number of months R receives pension benefits in 1980 = $65 × 12 = $780, where SPF for each month in 1980 = PBA × [sum of ILP's for the years 1977 through 1980] = $500 × [3% + 3% + I203% + 4%] = $65.

(6) Maximum for 1981 = SPF for each month in 1981 × number of months R received pension benefits in 1981 = $90 × 12 = $1080, where SPF for each month in 1981 = PBA × [sum of ILP's for the years 1977 through 1981] = $500 × [3% + 3% + I203% + 4% + 5%] = $90.

(7) Maximum for nine months of 1982 = SPF for each month in 1982 × number of months R received pension benefits in 1982 = $105 × 9 = $945, where SPF for each month in 1982 = PBA × [sum of ILP's for the years 1977 through 1982] = $500 × [3% + 3% + I203% + 4% + 5% + 3%] = 105.

(8) Sum of maximum amounts for the period from July 1, 1977 through September 30, 1982 = $3795. A lump sum supplemental payment to R with respect to the period from July 1, 1977 through September 30, 1982 which does not exceed $3795 may be made under a welfare plan rather than under a pension plan if the other conditions of paragraph (g)(1) of this section are met. If E makes this payment, any further supplemental payment to R with respect to any month between July 1, 1977 and September 30, 1982 would be made under a pension plan.

Example (3). Assume the same facts as those in Example (1). In September 1982, after receiving the supplemental payment of $105, R dies. R's beneficiary, B, immediately begins receiving monthly benefits of $300 in the form of an annuity under E's defined benefit pension plan. E decides to make a payment to B with respect to January 1983 under its supplemental payment plan. Assume for the purpose of this example that the average CPIU for 1981 = 272.0 and that the average CPIU for 1982 = 303.0. Assume also that the ILP for 1981 = 5% and that the ILP for 1982 = 3%. B's SPF for January 1983 = $75, computed as follows:

(1) PBA for January 1983 = $300.

(2) ILP for 1983 =

$$\frac{303.0 - 272.0}{3(272.0)} =$$

.0379 = 4% (rounded off).

(3) SPF = PBA × [sum of ILP's for the years 1977 through 1983] = 300 × [3% + 3% + 3% + 4% + 5% + 3% + 4%] = $75. If E's supplemental payment to B with respect to January 1983 does not exceed $75 and if the other conditions of paragraph (g)(1) of this section are met, the payment will be treated as made under a welfare plan rather than under a pension plan.

Example (4). The written instrument governing a supplemental payment welfare benefits plan established by F, an employer, provides for payments which are consistent with paragraph (g) of this section. The board of directors of F adopts a resolution authorizing F to make equal monthly payments under that plan for an indefinite period beginning on September 1, 1982. Under the resolution, the payments may continue at the discretion of F's management until the board passes another resolution terminating its prior authorization. Assume that the resolution does not obligate F to make any payments at all. F's management decides to make equal monthly supplemental payments for twelve months beginning on September 1, 1982. S, whose pension under F's defined benefit pension plan has been in pay status since retirement from F in January 1976, receives $600 in monthly pension benefits in the form of a level straight life annuity under that plan. Assume that the ILP for 1981 = 5% and that the ILP for 1982 = 3%. S's SPF for September 1982 = $108, computed as follows:

(1) PBA for each month during the twelve month period beginning on September 1, 1982 = $600.

(2) SPF = PBA × [sum of ILP's for the years 1978 through 1982] = $600 × [3% +3% +4% +5% +3%] = $108. Beginning on September 1, 1982, F may make twelve equal monthly payments of $108 under its supplemental payment welfare benefit plan without exceeding S's SPF for any month in that period. Note that in this example:

1. The amount of a supplemental payment to S with respect to a particular month during the period may not necessarily be as high as the maximum amount which F could pay to S for that month and still be within paragraph (g)(1) of this section.

2. Rather than making a $108 payment during each month, F could have postponed some or all of those monthly payments and paid the postponed amounts at a later time.

Example (5). Assume the same facts as those in Example (4), except that after making five monthly supplemental payments of $108 each to S and otherwise satisfying the conditions of paragraph (g)(1) of this section, F, in accordance with the terms of its board's resolution, decides not to make any further supplemental payments to S. Because F's supplemental payments to S are not part of a pension plan, F is not required under the Act to continue to make any supplemental payments to S.

Example (6). G, an employer, decides to make a payment to T with respect to January 1982 under a supplemental payment welfare benefit plan. The pension plan sponsored by G is a defined contribution plan which provides an annuity option at retirement. T, who retired from G on October 1, 1977, had an aggregate balance of $50,000 as of that date in an individual account maintained on T's behalf under G's pension plan. T elects to take the lump sum rather than the annuity option. Because T does not receive annuity benefits under G's pension plan, T's PBA and SPF for January 1982 are zero.

Signed at Washington, D.C. this 19th day of January, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-2577 Filed 1-21-81; 8:55 am]

BILLING CODE 4510-29-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates

AGENCY: Postal Service.

ACTION: Proposed international express mail rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes to revise and generally increase all International Express Mail rates as indicated in the tables below. The Postal Service also proposes to implement a new On Demand International Express Mail service with France at rates included in the tables below. The proposed rates and On Demand service with France are scheduled to become effective on March 15, 1981.

DATE: Comments must be received on or before March 1, 1981.

ADDRESS: Written comments should be directed to the General Manager, Rate Resources Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in Room 8626, 475 L'Enfant Plaza West, SW, Washington, DC 20260.

FOR FURTHER INFORMATION CONTACT: Martin R. Anker (202) 245-4418.

SUPPLEMENTARY INFORMATION: Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed rates of postage for International Express Mail set out in the following tables (designated Tables 1 through 17 for inclusion as separate country entries in the International Mail Manual, incorporated by reference, 39 CFR 10.1).

(39 U.S.C. 401, 407)

In consideration of the foregoing, the Postal Service proposes to revise Tables 1 through 17 of the International Mail Manual to read as follows:

W. Allen Sanders,

Associate General Counsel, Office of General Law and Adminstration.

Paul J. Kemp,

Alternate Liaison Officer for the U.S. Postal Service.

Table 1.—*Argentina International Express Mail*

Up to and including—	Rate
Custom Design Service[1] [2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40
On Demand Service[2]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70
23	101.40
24	105.10
25	108.80
26	112.50
27	116.20
28	119.90
29	123.60
30	127.30
31	131.00
32	134.70
33	138.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 2.—*Australia International Express Mail*

Up to and including—	Rate
Custom Designed Service[1 2]	
Pounds:	
1	$29.00
2	33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50
19	110.00
20	114.50
21	119.00
22	123.50
23	128.00
24	132.50
25	137.00
26	141.50
27	146.00
28	150.50
29	155.00
30	159.50
31	164.00
32	168.50
33	173.00
On Demand Service[2]	
Pounds:	
1	$21.00
2	25.50
3	30.00
4	34.50
5	39.00
6	43.50
7	48.00
8	52.50
9	57.00
10	61.50
11	66.00
12	70.50
13	75.00
14	79.50
15	84.00
16	88.50
17	93.00
18	97.50
19	102.00
20	106.50
21	111.00
22	115.50
23	120.00
24	124.50
25	129.00
26	133.50
27	138.00
28	142.50
29	147.00
30	151.50
31	156.00
32	160.50
33	165.00

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and international Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 3.—*Belgium International Express Mail*

Up to and including—	Rate
Custom Designed Service[1 2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and international Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 4.—*Bermuda International Express Mail*

Up to and including—	Rate
Custom Designed Service[1 2]	
Pounds:	
1	$26.00
2	27.30
3	28.60
4	29.90
5	31.20
6	32.50
7	33.80
8	35.10
9	36.40
10	37.70
11	39.00
12	40.30
13	41.60
14	42.90
15	44.20
16	45.50
17	46.80
18	48.10
19	49.40
20	50.70
21	52.00
22	53.30
23	54.60
24	55.90
25	57.20
26	58.50
27	59.80

Table 4.—*Bermuda International Express Mail*—Continued

Up to and including—	Rate
28	61.10
29	62.40
30	63.70
31	65.00
32	66.30
33	67.60
On Demand Service[2]	
Pounds:	
1	$16.00
2	19.30
3	20.60
4	21.90
5	23.20
6	24.50
7	25.80
8	27.10
9	28.40
10	29.70
11	31.00
12	32.30
13	33.60
14	34.90
15	36.20
16	37.50
17	38.80
18	40.10
19	41.40
20	42.70
21	44.00
22	45.30
23	46.60
24	47.90
25	49.20
26	50.50
27	51.80
28	53.10
29	54.40
30	55.70
31	57.00
32	58.30
33	59.60

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 5.—*Brazil International Express Mail*

Up to and including—	Rate
Custom Designed Service[1 2]	
Pounds:	
1	$29.00
2	33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50

Table 5.—*Brazil International Express Mail*—Continued

Up to and including—	Rate
19	110.00
20	114.50
21	119.00
22	123.50
23	128.00
24	132.50
25	137.00
26	141.50
27	146.00
28	150.50
29	155.00
30	159.50
31	164.00
32	168.50
33	173.00
34	177.50
35	182.00
36	186.50
37	191.00
38	195.50
39	200.00
40	204.50
41	209.00
42	213.50
43	218.00
44	222.50
45	227.00
46	231.50
47	236.00
48	240.50
49	245.00
50	249.50

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 6.—*Canada International Express Mail*

Up to and including—	Rate
Custom Designed Service [1] [2]	
Pounds:	
1	$26.00
2	27.30
3	28.60
4	29.90
5	31.20
6	32.50
7	33.80
8	35.10
9	36.40
10	37.70
11	39.00
12	40.30
13	41.60
14	42.90
15	44.20
16	45.50
17	46.80
18	48.10
19	49.40
20	50.70
21	52.00
22	53.30
23	54.60
24	55.90
25	57.20
26	58.50
27	59.80
28	61.10
29	62.40
30	63.70
31	65.00
32	66.30
33	67.60
34	68.90
35	70.20
36	71.50
37	72.80
38	74.10
39	75.40
40	76.70
41	78.00
42	79.30

Table 6.—*Canada International Express Mail*—Continued

Up to and including—	Rate
43	80.60
44	81.90
On Demand Service [1]	
Pounds:	
1	$18.00
2	19.30
3	20.60
4	21.90
5	23.20
6	24.50
7	25.80
8	27.10
9	28.40
10	29.70
11	31.00
12	32.30
13	33.60
14	34.90
15	36.20
16	37.50
17	38.80
18	40.10
19	41.40
20	42.70
21	44.00
22	45.30
23	46.60
24	47.90
25	49.20
26	50.50
27	51.80
28	53.10
29	54.40
30	55.70
31	57.00
32	58.30
33	59.60
34	60.90
35	62.20
36	63.50
37	64.80
38	66.10
39	67.40
40	68.70
41	70.00
42	71.30
43	72.60
44	73.90

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 7.—*People's Republic of China International Express Mail*

Up to and including—	Rate
Custom Designed Service	
Pounds:	
1	$29.00
2	33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50
19	110.00
20	114.50
21	119.00
22	123.50
23	128.00

Table 7.—*People's Republic of China International Express Mail*—Continued

Up to and including—	Rate
24	132.50
25	137.00
26	141.50
27	146.00
28	150.50
29	155.00
30	159.50
31	164.00
32	168.50
33	173.00
On Demand Service [1]	
Pounds:	
1	$21.00
2	25.50
3	30.00
4	34.50
5	39.00
6	43.50
7	48.00
8	52.50
9	57.00
10	61.50
11	66.00
12	70.50
13	75.00
14	79.50
15	84.00
16	88.50
17	93.00
18	97.50
19	102.00
20	106.50
21	111.00
22	115.50
23	120.00
24	124.50
25	129.00
26	133.50
27	138.00
28	142.50
29	147.00
30	151.50
31	156.00
32	160.50
33	165.00

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 8.—*France International Express Mail*

Up to and including—	Rate
Custom Designed Service [1] [2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20

Table 8.—*France International Express Mail*—Continued

Up to and including—	Rate
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40
On Demand Service [2]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70
23	101.40
24	105.10
25	108.80
26	112.50
27	116.20
28	119.90
29	123.60
30	127.30
31	131.00
32	134.70
33	138.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 9.—*Federal Republic of Germany International Express Mail*

Up to and including—	Rate
Custom Designed Service [1] [2]	
Pounds:	
1	$27.00
2	29.90
3	32.80
4	35.70
5	38.60
6	41.50
7	44.40
8	47.30
9	50.20
10	53.10
11	56.00
12	58.90
13	61.80
14	64.70
15	67.60
16	70.50
17	73.40
18	76.30
19	79.20
20	82.10
21	85.00
22	87.90
23	90.80
24	93.70
25	96.60
26	99.50
27	102.40
28	105.30
29	108.20
30	111.10
31	114.00
32	116.90
33	119.80

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 10.—*Hong Kong International Express Mail*

Up to and including—	Rate
Custom Designed Service [1] [2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40
On Demand Service [2]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70
23	101.40
24	105.10
25	108.80
26	112.50
27	116.20

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 11.—*Japan International Express Mail*

Up to and including—	Rate
Custom Designed Service [1] [2]	
Pounds:	
1	$29.00
2	33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 12.—*Republic of Korea International Express Mail*

Up to and including—	Rate
Custom Designed Service [1] [2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
On Demand Service [2]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90

Table 12.—*Republic of Korea International Express Mail*—Continued

Up to and including—	Rate
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 13.—*Netherlands International Express Mail*

Up to and including—	Rate
Custom Designed Service [1 2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40
On Demand Service [2]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00

Table 13.—*Netherlands International Express Mail*—Continued

Up to and including—	Rate
22	97.70
23	101.40
24	105.10
25	108.80
26	112.50
27	116.20
28	119.90
29	123.60
30	127.30
31	131.00
32	134.70
33	138.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 14.—*Singapore International Express Mail*

Up to and including—	Rate
Custom Designed Service [1 2]	
Pounds:	
1	$29.00
2	33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50
19	110.00
20	114.50
21	119.00
22	123.50
23	128.00
24	132.50
25	137.00
26	141.50
27	146.00
28	150.50
29	155.00
30	159.50
31	164.00
32	168.50
33	173.00
On Demand Service [2]	
Pounds:	
1	$21.00
2	25.50
3	30.00
4	34.50
5	39.00
6	43.50
7	48.00
8	52.50
9	57.00
10	61.50
11	66.00
12	70.50
13	75.00
14	79.50
15	84.00
16	88.50
17	93.00
18	97.50
19	102.00
20	106.50
21	111.00
22	115.50
23	120.00

Table 14.—*Singapore International Express Mail*—Continued

Up to and including—	Rate
24	124.50
25	129.00
26	133.50
27	138.00
28	142.50
29	147.00
30	151.50
31	156.00
32	160.50
33	165.00

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 15.—*Switzerland International Express Mail*

Up to and including—	Rate
Custom Designed Service [1 2]	
Pounds:	
1	$28.00
2	31.70
3	34.50
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.30
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40
On Demand Service [2]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.20
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70
23	101.40
24	105.10
25	108.80

Table 15.—*Switzerland International Express Mail*—Continued

Up to and including—	Rate
26	112.50
27	116.20
28	119.90
29	123.60
30	127.30
31	131.00
32	134.70
33	138.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 16.—*Taiwan International Express Mail*

Up to and including—	Rate
Custom Designed Service[1] [2]	
Pounds:	
1	$28.00
2	31.70
3	35.40
4	39.10
5	42.80
6	46.50
7	50.20
8	53.90
9	57.60
10	61.30
11	65.00
12	68.70
13	72.40
14	76.10
15	79.80
16	83.50
17	87.20
18	90.90
19	94.60
20	98.20
21	102.00
22	105.70
23	109.40
24	113.10
25	116.80
26	120.50
27	124.20
28	127.90
29	131.60
30	135.30
31	139.00
32	142.70
33	146.40
On Demand Service[3]	
Pounds:	
1	$20.00
2	23.70
3	27.40
4	31.10
5	34.80
6	38.50
7	42.20
8	45.90
9	49.60
10	53.30
11	57.00
12	60.70
13	64.40
14	68.10
15	71.80
16	75.50
17	79.30
18	82.90
19	86.60
20	90.30
21	94.00
22	97.70
23	101.40
24	105.10
25	108.80
26	112.50
27	116.20
28	119.90

Table 16.—*Taiwan International Express Mail*—Continued

Up to and including—	Rate
29	123.60
30	127.30
31	131.00
32	134.70
33	138.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Table 17.—*United Kingdom International Express Mail*

Up to and including—	Rate
Custom Designed Service[1] [2]	
Pounds:	
1	$27.00
2	29.90
3	32.80
4	35.70
5	38.60
6	41.50
7	44.40
8	47.30
9	50.20
10	53.10
11	56.00
12	58.90
13	61.80
14	64.70
15	67.60
16	70.50
17	73.40
18	76.30
19	79.20
20	82.10
21	85.00
22	87.90
23	90.80
24	93.70
25	96.60
26	99.50
27	102.40
28	105.30
29	108.20
30	111.10
31	114.00
32	116.90
33	119.80
On Demand Service[3]	
Pounds:	
1	$19.00
2	21.90
3	24.80
4	27.70
5	30.60
6	33.50
7	36.40
8	39.30
9	42.20
10	45.10
11	48.00
12	50.90
13	53.80
14	56.70
15	59.60
16	62.50
17	65.40
18	68.30
19	71.20
20	74.10
21	77.00
22	79.90
23	82.80
24	85.70
25	88.60
26	91.50
27	94.40
28	97.30
29	100.20
30	103.10

Table 17.—*United Kingdom International Express Mail*—Continued

Up to and including—	Rate
31	106.00
32	108.90
33	111.80

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

[FR Doc. 81-4369 Filed 2-5-81; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

Indemnity Claims

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend part 149 of the Domestic Mail Manual, which contains regulations governing indemnity claims for insured, COD, registered, and Express Mail. Most of the changes are not substantive but represent a thorough restructuring of part 149 to make it easier to read and understand. The substantive changes, which are detailed below, are proposed to make claims adjudication more equitable, to clarify liability on certain items, and to establish requirements for proof of loss.

DATES: Comments must be received on or before March 6, 1981.

ADDRESS: Written comments should be addressed to the General Manager, Special Services Division, Rates and Classification Department, United States Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in Room 8316, 475 L'Enfant Plaza West, SW, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Belford, (202) 245-4529.

SUPPLEMENTARY INFORMATION: Part 149 of the Domestic Mail Manual is published below in its entirety. Most of the changes are not substantive, but are primarily editorial and corrective.

We have added certain regulations, however, consisting of internal operating instructions which were not transferred from Chapter 1 of the Postal Service Manual at the time the Domestic Mail Manual was established. See 44 FR 39742 (July 6, 1979). For reasons of administrative convenience, we have decided to return these instructions to the Domestic Mail Manual. In this

revision, they are designated as 149.313, 149.32 through 149.4, and 149.6.

A specific description of the substantive changes follows:

Proposed 149.221 adds time limits for filing follow-up claims (duplicates, inquiries, ect.) and for filing appeals from claim decisions. At present there are no time limits for taking these actions. The lack of time limits conflicts with the postal policy of retaining delivery records for no more than two years. Where a long period of time elapses from the filing of the original claim (which must be filed within one year), the Postal Service may no longer have the original evidence of delivery and thus may be unable to review fully the follow-up claim or the appeal from a decision.

Proposed 149.251k specifically limits Postal Service liability for lost or damaged photographic film or negatives. For a number of years it has been Postal Service policy to pay only for the cost of lost or damaged film or negatives, but this policy has not been spelled out in the regulations. This new provision is intended to put customers on notice of this policy.

Proposed 149.252b would disqualify duplicate claims, inquiries or appeals that are filed after expiration of prescribed time limits.

In the following situations, the Postal Service proposes not to pay indemnity:

1. Where an article is so fragile as to prevent its safe carriage in the mails, regardless of packaging—proposed 149.252o. In this situation, the Postal Service would permit such a fragile item to be mailed if a mailer wishes to do so, but no insurance on the item would be offered.

2. For time lost in replacing documents—proposed 149.252p.

3. Where the claimant does not submit to the Postal Service for inspection the damaged article, the mailing container and the packaging—proposed 149.252q. Occasionally, claimants present a damaged article without the container and packaging and request payment. In such cases, the Postal Service has no way of making sure that the item presented was actually sent through the mail.

4. Where articles have been transported by other carriers or by private conveyance—proposed 149.252r. In such cases, it is difficult, if not impossible, to determine who is responsible for the damage—the Postal Service, the common carrier, or the owner of the private conveyance.

5. Where damage is caused by shock, transportation environment, or x-ray, and there is no evidence of damage to mailing container—proposed 149.252s.

6. Where container and packaging are not submitted to the Postal Service for inspection on partial or complete loss of contents claims—proposed 149.252t. Without the container and packaging the Postal Service is unable to determine whether loss is attributable to the Postal Service.

Proposed 149.312 would require a mailer to show proof of loss before the Postal Service will accept a claim of loss. Proof of loss could be shown by securing a signed form or a letter from the addressee indicating the article was not received, or by receiving a response from the post office of the addressee that no delivery record is on file.

The Postal Service proposes to add the proof of loss requirement to discourage those who file indemnity claims simply to obtain a free record of delivery or to maintain their accounting records. Filing invalid claims for these reasons results in significant expense to the Postal Service and adds unreasonably to the cost burden of the insured mail system.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the substantive changes described above, which are included in their respective places in the revised part 149 of the Domestic Mail Manual, a document that is incorporated by reference in the Federal Register. See 39 CFR 111.1.

In consideration of the foregoing, the Postal Service proposes to revise part 149 of the Domestic Mail Manual to read as follows:

Part 149—Indemnity Claims

149.1 Special Services With Indemnity Provisions Indemnity Claims may be filed for insured, COD, registered, or Express Mail. (See Publication 42, *International Mail*, for international insured and registered mail indemnity claims. See 149.511 for Express Mail provisions.)

149.2 General Instructions for Filing Claims on Insured, COD, and Registered Mail

.21 Who May File

A claim for complete loss (wrapper and contents) may only be filed by the mailer. A claim for complete loss of contents, partial loss, or damage may be filed by the mailer or addressee.

.22 When to File

.221 General

Indemnity claims must be filed within one year from the date the article was mailed. Follow-up claims (duplicates, inquiries, etc.) must be filed no sooner than 45 days, nor later than six months from the date the original claim was filed. All appeals concerning Postal Service claim decisions must be filed within three months of the date of the original decision on the claim.

.222 Loss Claims

a. Insured and COD

The mailer may not file a claim until 30 days after the date of mailing for COD articles. *Exceptions:* Claims for loss must not be submitted until 45 days after the date of mailing for parcels sent by First-Class (including priority), SAM or PAL mail, and until 75 days after the date of mailing for parcels sent by surface ocean transportation between:

(1) The contiguous 48 states and any State, territory, or possession of the United States located outside the contiguous 48 states (including any location or unit having an APO or FPO designation as part of the address).

(2) Any State, territory or possession of the United States located outside the contiguous 48 states and any other state, territory or possession of the United States located outside the contiguous 48 states (including any location or unit having an APO or FPO designation as part of the address).

b. Registered

The customer may not file a claim involving loss until 15 days after the date of mailing in the case of domestic mail, or articles addressed to or mailed from an APO or FPO.

.223 Complete or Partial Loss of Contents, Damage or Rifling Claims

Claims for complete or partial loss of contents, damage, or alleged rifling must be filed immediately.

.23 Copies of Delivery Records

Customers may obtain copies of delivery records on numbered insured, COD, registered, and Express Mail shipments by sending a request to the post office of address. The request must include all mailing information such as article number, date mailed, names and addresses of mailer and addressee, and tyhpe of mailing (insured, COD, etc.). The fee is $2.10 for each copy of the delivery record requested and must be sent with the request.

.24 Required Information

.241 Evidence of Insurance, COD, or Registration

The customer must submit evidence that the article was an insured, COD or registered mailing. Acceptable evidence includes either:

a. The original mail receipt issued at the time of mailing. Reproduced copies are not acceptable;

b. The wrapper, which must have the names and addresses of both the mailer and addressee and the appropriate mail endorsement indicating Postal Service

handling as insured, COD, or registered mail.

Note.—Indemnity may be limited to $50 for insured; $10 for COD mail and $100 for registered mail if the wrapper is submitted as evidence.

.242 Evidence of Value

The customer must submit evidence of value for all claims. All statements must be dated and signed by the maker. Acceptable evidence includes:

a. Sales receipt

b. Invoice

c. Statement of value from a reputable dealer.

d. Catalog value of a similar article.

e. Statement describing the article lost of damaged, including where purchased, date, amount, and whether the article was new or used. If handmade, the price of material used and labor must be stated. The items must be described in sufficient detail for the Postal Data Center (PDC) to determine that the value claimed is accurate.

f. Paid repair bills, estimates of repair costs, or appraisals may be used instead of estimates of value in the case of claims for partial damage. When there is a possibility that the cost of repair exceeds actual value, other evidence of value may be required.

g. Statement of cost for duplication and premium for surety bond when the claim is for loss of securities or certificates of stock.

.25 Payable and Nonpayable Claims

.251 Payable Claims. Subject to 149.252, insurance for loss or damage to registered, insured, or COD mail within the amount covered by the fee paid is payable for:

a. Actual value of lost articles. Depreciation is deducted for used items.

b. Cost of repairing a damaged article or replacing a totally damaged article, not exceeding actual value of the article.

c. Remittance due on a COD parcel for which not remittance has been received by the mailer.

d. Death of bees or baby poultry due to physical damage to the package or delay for which the Postal Service is responsible. In the absence of definite evidence showing responsibility for death of bees or baby poultry, the Postal Service will be presumed to be at fault if 10 percent or more are dead on delivery, and indemnity will be paid for all dead bees or poultry; otherwise the Postal Service will not be presumed to be at fault (see 149.2521 and m and 124.293).

e. Costs incurred in duplicating or obtaining documents, or their original cost if they cannot be duplicated. These costs include:

(1) Cost of duplicating service.

(2) Notary fees.

(3) Bonding fees for replacement of stock or bond certificates.

(4) Reasonable attorney's fees, if actually required to replace the lost or damaged documents.

(5) Other direct and necessary expenses or costs, as determined by the Postal Service.

f. The extra cost of gift wrapping if the gift wrapped article was enclosed in another container for handling in the mail.

g. Cost of outer container if specially designed and constructed for goods sent.

h. The established fair market value of stamps and coins having philatelic or numismatic value, as determined by a recognized dealer of stamps or coins.

i. Federal, state or city sales tax paid on articles which are lost or totally damaged.

j. Postage (not fee) paid for sending damaged articles for repair. The Postal Service must be used for this purpose. Other reasonable transportation charges may be included if postal service is not available.

k. Photographic film and negatives will be compensated for only at the cost of the film stock. No indemnity will be paid for the content of the film, nor for the photographer's time and expenses in taking the photographs.

.252 Nonpayable Claims. Payment will not be made in excess of the actual value of the article, or in excess of the maximum amount covered by the fee paid. Indemnity will not be paid in the following situations:

a. The article was not rightfully in the mail. This includes parcels and COD articles sent to addressees without their consent for purposes of sale or on approval.

b. The claim is filed more than one year from the date the article was mailed; the duplicate claim or inquiry is not initiated within six months of the original claim filing date; or the appeal of the Postal Service decision is not filed within three months of the date of the original decision.

c. Evidence of insurance coverage has not been presented.

d. The mailer failed to state at time of mailing the full value of a registered article (see 911.251).

e. Loss, rifling, or damage occurred after delivery by the Postal Service.

f. The claim is based on sentimental loss rather than actual value.

g. The loss resulted from delay of the mail.

h. The claim is for consequential loss rather than for the article itself.

i. The contents froze, melted, spoiled, or deteriorated.

j. The parcel was packaged in such a way that it could not have reached the addressee in good condition in the ordinary course of the mail.

k. The damage consisted of abrasion, scarring, or scraping of suitcases, handbags, and similar articles which were not properly wrapped for protection.

l. The death of baby poultry was due to shipment to points where delivery could not be made within 72 hours from the time of hatch.

m. The death of honeybees and harmless live animals was not the fault of the Postal Service (see 124.293).

n. A failure on the part of the second party (the addressee if the claim is filed by the mailer, or the mailer if the claim is filed by the addressee) to fully cooperate in the completion of the claim.

o. The article is so fragile as to prevent its safe carriage in the mails, regardless of packaging.

p. Personal compensation for time required to replace lost documents.

q. Damaged articles, mailing container, and packaging were not submitted to the Postal Service for inspection.

r. The claim was submitted after the article had been transported outside of the mails by other carriers or by private conveyance.

s. The damage was caused by shock, transportation environment, or X-ray and no evidence of damage to the mailing container exists.

t. The container and packaging were not submitted to the Postal Service for inspection on a partial or complete loss of contents claim.

.26 Replacement Shipments

If a replacement shipment has been sent to a customer to replace the original article(s) lost, *Replacement Shipment* must be indicated on the claim and a copy of the invoice evidencing the replacement must be attached to the claim form.

.27 Estimates, Appraisals, and Depreciation

.271 If necessary, the article may be returned to the customer by the Postal Service, so he may obtain an appraisal or estimate. Postal Service personnel must give and take receipts for damaged articles (see 149.313). Important: The condition of the article must be noted on the receipt.

.272 The Postal Service depreciates a used article either lost or damaged based on the life expectancy of the article.

.28 Processing Claims

.281 Post Offices, Classified Stations and Branches. Post offices, classified stations and branches will:

a. Accept and process registered, insured, and COD claims upon the presentation of the required information.

b. Assist customers in the preparation of claim form.

c. Complete post office portion of the claim.

d. Route completed forms in accordance with the type of claim being processed.

.282 St. Louis PDC/Office of Mail Classification. The St. Louis PDC (or the Office of Mail Classification, USPS Headquarters, at its discretion) will adjudicate and pay or disallow all claims.

.283 Appeals. Appeals are filed with the Director of the St. Louis PDC. If the Director of the PDC sustains the denial, the appeal will be forwarded to the Director, Office of Mail Classification, USPS Headquarters, for final review and adjudication (see 149.81).

149.3 Insured and COD Claims

.31 How to File

.311 Required Forms

A customer may file a claim at any post office, classified branch, or station. Form 3812, *Request for Payment of Domestic* Postal Insurance, dated Nov. 1971 or later, must be used to request payment for the loss or damage of insured mail. A claim has not been filed until a completed Form 3812 has been accepted by the Postal Service. The form is a four-part snap-out set which includes two copies of Form 1510–A, *Inquiry for the Loss or Rifling of Mail Matter*, and one copy of Form 3841, *Post Office Record of Claim*. DO NOT COMPLETE A SEPARATE FORM 1510 OR FORM 3841 FOR INSURED OR COD CLAIMS.

.312 Evidence of Loss or Damage

a. Complete Loss

All mailers filing claims for complete loss of insured mail must provide proof that a loss has actually occurred before post offices will accept a claim for indemnity. This proof may be supplied by any one of the following methods:

(1) The mailer may obtain a claim form, Form 3812, Request For Payment of Domestic Postal Insurance, from any post office. The mailer must then complete the claim form and mail it to the addressee. Postal Service personnel will not mail the claim form for the mailer, but assistance in completing the form will be provided upon request. The addressee must compete Items 15 and 19 on the claim form and return it to the mailer. If the addressee has signed the claim form and indicated the article was not received, the mailer may then take the claim form, along with the original mailing receipt, to a post office and file the claim.

(2) If the mailer is unable to obtain the cooperation of the addressee in signing Form 3812 for numbered insured articles or if he prefers, the mailer may send a check or money order for $2.10 to the post office of address and request a copy of the delivery record. Such requests for delivery records must contain the date the article was mailed, the insurance number and the complete name and address of the mailer and addressee (see 149.23).

(3) If the mailer receives a notice from the post office of address that a delivery record is not on file, the mailer may take this notice and original mailing receipt to any post office and file a claim for loss. Post offices accepting such claims must attach a copy of the notice from the addressee post office to the Form 3812 claim set and send them to the St. Louis PDC for adjudication.

(4) If the mailer has written and signed documentation (such as a letter) from the addressee stating the addressee did not receive the article, the mailer may take this documentation to a post office, along with the original mailing receipt, and file a claim. The Postal Service employee must attach this documentation, or a copy of it, to the claim form.

b. Complete or Partial Loss of Contents

For compete or partial loss of contents claims, the container and packaging must be presented to the Postal Service for inspection when the claim is filed. Exception: The claimant may submit a Form 673, *Report of Rifled Article*, or a Form 3760, *Wrapper Found Without Contents* (which was received from the Postal Service), to file a claim.

c. Damage Claims

For damage claims, the article with the mailing container and packaging must be presented to the Postal Service for inspection at the time the claim is filed.

.313 How to Complete Form 3812

a. Customer Action

Type or print legibly with a ballpoint pen (press hard). Fill out Items 1–19 and the lower portion (marked "Postal Insurance Claim Identification") of the form. If you need help, the accepting postal employee will assist you. Items 1–19 should be completed as follows:

Item 1. Check appropriate *block* indicating reason for claim.

(1) Complete Loss—article not delivered.

(2) Complete Loss of Contents—article or wrapper delivered, *all* contents missing.

(3) Partial Loss—article delivered some contents missing.

(4) Complete Damage—article delivered, *all* contents damaged.

(5) Partial Damage—article delivered, some contents damaged.

(6) No COD Remittance—mailer did not receive money order for article mailed.

Item 2. Indicate type of mail and insured or COD number, if appropriate.

Item 3. Indicate special delivery, if applicable.

Item 4. Indicate use of priority (First-Class zone rated) mail, if applicable.

Item 5. Enter city, State and ZIP Code of *mailing post office* (not necessarily the post office where the claim is being filed). If the package was mailed at a station or branch, use the appropriate ZIP Code.

Item 6. Enter the date the package was mailed. (Six digits: month, day and year. *Example*, January 27, 1981: 01–27–81)

Item 7. Enter the date the claim is being filed (Six digits: month, day and year)

Item 8. Enter city, State and ZIP Code or *post office of address.*

Item 9. Enter the amount of postage paid, including special fees such as special delivery or special handling.

Item 10. Enter amount of insurance fee paid.

Items 11 and 12. Names and addresses of mailer and addressee. The mailer must indicate the payee by checking the payee block in either Item 11 or 12. The name of the payee indicated in Items 11 or 12 *must* agree with the payee shown in the *Mail Check To* portion of the identification slip.

Item 13. Describe the articles lost or damaged. Indicate the purchase price, the approximate year of purchase, whether the article was new or used, or, if handmade, the price of materials used and labor expended. Describe the items in sufficient detail for the PDC to determine that the value claimed is not excessive. If necessary, attach a supplementary sheet of paper to the claim form.

Item 14. Enter the total amount claimed, excluding postage.

Item 15. MUST BE COMPLETED BY ADDRESSEE ONLY. Indicate whether the article was received or refunded.

Item 16. MUST BE COMPLETED BY ADDRESSEE ONLY. Complete for COD mailings only.

Item 17. Complete only if package was commercially insured. Include policy number, name, and address of insurance company and amount of deductible, if appropriate.

Item 18. If the mailer is filing the claim, the *mailer* must sign, date, and enter his telephone number in the appropriate block. If the claim is being filed by a business firm, the firm name should be entered in the signature block and the firm's representative must sign the block labeled "BY."

Item 19. If the addressee is filing the claim, the *addressee* must sign, date, and enter his telephone number in the appropriate blocks. If the claim is being filed by a business firm, the firm name should be entered in the signature block and the firm's representative must sign the block labeled "BY."

b. Accepting Employee Action

(1) Type or print legibly with a ballpoint pen (press hard).

(2) Complete Items 1–10 if the customer has not already done so (see 149.313a for detailed instructions).

(3) Verify entries in Items 2–6 and 8–10 by comparing information to the original mailing receipt.

(4) If necessary, assist the claimant, to the extent possible, in completing Items 11–14 and items 17, 18, or 19.

(5) Complete Items 20–22 as follows:

Item 20. Date stamp and signature of postal employee accepting the claim.

Item 21. Check the appropriate block to indicate evidence of insurance. Endorse the original insurance receipt and/or wrapper *Claim Filed,* date stamp, and initial it. Return it to the customer and instruct him to keep it until the claim is settled.

Item 22. Location of the damaged article:

(a) If the customer has possession of the damaged article, he must display it and the packaging to the accepting postal employee to verify actual damage.

(b) If the claim is for partial damage, check the appropriate block to indicate that the customer will retain possession of the article.

Note.—Under no circumstances should the accepting postal employee arrange to have the article repaired.

(c) If the claim is for complete damage, disposition of the article will be at the option of the Postal Service (see 149.6).

(6) Review the Form 3812 *before the customer leaves,* to assure that:

(a) The following information is on the lower portion of Form 3812:

(i) Mailer's name and address

(ii) Addressees' name and address

(iii) Other identification (invoice numbers, etc.)

(iv) Name and address of payee, as designated by claimant

(b) The mailer has designated the payee (exceptions, see 149.333d(2)) and signed the claim form.

(c) All necessary supporting documents (bill of sale, invoice, repair bill or estimate of repairs, and evidence of loss) are attached to the back of the claim form.

.32 Disposition of Damaged Article—see 149.6

.33 Processing Form 3812

.331 Accepting Employee

The accepting employee must forward the partially completed claim form, with the available supporting documentation, to:

a. The Claims and Inquiry Section, if one exists, or;

b. The employee in the post office who has been designated to handle insurance claims.

.332 Final Preparation

Complete final preparation of the claim form at the accepting post office (except APO/FPO claims and Canal Zone claims—see 149.34) as follows:

a. Enter the claim number. The claim number is composed of the six-digit post office finance number and a three-digit sequential number beginning with 001 and continuing through 999. When the total of claims initiated reaches 999, begin again with 001.

b. Check the appropriate box in the Forward to block to indicate to whom the claim form will be forwarded.

c. Detach and file copy 4 of the claim form set (Form 3841) alphabetically by mailer's name.

.333 Forwarding Claims

a. *Loss of Numbered Insured Articles*

If the addressee has signed the Form 3812 or there is written documentation that a loss has occurred, attach a PS Form 3861–A, and send the entire claim form, with the evidence of loss attached, to the post office of address. Do not remove either copy of Form 1510–A from the claim set.

b. *Loss of Unnumbered Insured Articles or Numbered Loss Claims With Postal Service Notification the Article Was Not Delivered*

Send Form 3812, with both copies of Form 1510–A attached, directly to the St. Louis PDC for adjudication. Make sure the evidence of loss, or a copy of it, accompanies the claim.

c. *COD or Damaged Insured Articles*

(1) Select the appropriate form letter of instructions and attach it to the front of the claim form set as follows:

(a) Form 3861, *COD Loss Claim Filed by Mailer*

(b) Form 3862, *Damage Claim Filed by Mailer*

(c) Form 3863, *Damage Claim Filed by Addressee*

(2) Prepare a pre-addressed, penalty reply envelope as follows: Postal Data Center, P.O. Box 14677, St. Louis, MO 63180.

(3) Attach the envelope to the claim form set. Send COD claims for loss to the addressee and damage claims to the second customer (either the mailer or addressee).

d. *Exceptional Damage Claims*

(1) If the claimant has possession of the damaged article and submits proof that it was received by the addressee in a damaged condition, or that it was returned from the office of address as undeliverable, do not send the claim form to the addressee. Forward it directly to the St. Louis PDC for adjudication.

(2) If the addressee has paid for repair to a partially damaged article, mail the claim directly to the St. Louis PDC without the statement or signature of the mailer, *provided* you can determine from the insurance endorsement on the wrapper that the insurance fee paid was sufficient to have purchased insurance to cover the cost of repairs. Otherwise, forward the claim to the mailer for his evidence of insurance in accordance with Section 149.441.

.34 APO/FPO and Canal Zone Claims

.341 Initiating Post Office

When preparing and forwarding APO/FPO and Canal Zone claims:

a. *Determine Mailer's Location*

Determine whether or not the mailer is still in an overseas area. Frequently, APO/FPO and Canal Zone claims can be settled locally without contacting the port post office. The claim form set can then be forwarded directly to the St. Louis PDC. If the claim cannot be settled locally, prepare the claim form set as you would an ordinary domestic claim (except do not enter a claim number and do not detach copy 4—Form 3841). You may make a *copy* of the 3841 for your records.

b. *Form Letter*

Select and attach the appropriate form letter (see 149.333c) and forward as follows:

(1) *Overseas Military Mail.* To the postmaster at the port post office indentified in the mailer's or addressee's address:

(a) Postmaster San Francisco, CA 94101

(b) Postmaster New York, NY 10001

(c) Postmaster Settle, WA 98109

(d) Postmaster Miami, FL 33152

(2) *Canal Zone Mail.* To the Postmaster, New Orleans, LA 70113.

.342 Port Post Office

a. Upon receipt of an APO/FPO or Canal Zone claim initiated by another post office, take the following action:

(1) Enter your own claim number.

(2) Detach and file copy 4 (Form 3841) of the claim form set.

(3) Forward the claim form set to the next contact point.

b. When the claim form set is returned to your office:

(1) Annotate the Form 3841 appropriately.

(2) Forward the claim form set to the St. Louis PDC for adjudication.

.35 Additional Post Office Responsibilities

.351 General Assistance to Customers

a. *Claim Form Initiated at Another Office*

If a customer comes into your office with any one of the form letters mentioned in Section 149.333c and a partially completed Form 3812, follow these procedures:

(1) Read carefully the form letter which transmitted directions to the customer.

(2) Assist the customer in completing his portion of the Form 3812 in accordance with the directions in the form letter.

(3) Place the completed Form 3812 and all other material which the customer has received in the pre-addressed PDC envelope and mail.

b. *Verifying Insurance Receipt*

When the addressee has filed a damage claim and the amount of indemnity claimed exceed $50, the mailer must present his original insurance receipt for verification. Verification may be accomplished at any post office, classified station or branch. Reproductions of receipts are *not* acceptable. Accept the insurance receipt, the partially completed Form 3812, and the form letter of instructions from the mailer. Follow these procedures:

(1) Read carefully the form letter which transmitted directions to the customer.

(2) Complete items 9 and 10 on Form 3812 (see 149.313a).

(3) Assist the customer in completing his portion of the Form 3812 in accordance with the directions in the form letter.

(4) Endorse the insurance receipt *Claim Filed*, date stamp and initial it. Return the receipt to the customer and instruct him to keep it until the claim is settled.

(5) Place the completed Form 3812 and all other material which the customer has received in the pre-addressed PDC envelope and mail.

.352 Inquiries and Duplicate Claims

a. *Initiating Post Office*

If a customer inquires about the status of a claim, first ensure that the required time has elapsed for a duplicate claim (45 days). If the required time has elapsed, prepare and process a duplicate claim as follows:

(1) Check to see that the original mailing receipt has been properly annotated to indicate an original claim was filed. If it does not so indicate, a duplicate claim *cannot* be filed, and original claim procedures must be followed.

(2) Use the information on the original Form 3841 to complete as much of the duplicate Form 3812 as is possible. Enter the same claim number, date mailed, and claim date that appeared on the original Form 3812. Obtain the signature of the customer who initiated the original claim.

(3) Mark the top of the Form 3812 *Duplicate*. Date stamp Item 20 and sign.

(4) Annotate the original Form 3841 "Duplicate Claim Initiated on (date)." Do not detach the Forms 1510-A or 3841 from the duplicate claim form set.

(5) Forward the entire package to the post office which serves the second customer. APO/FPO claims must be sent to the Port Post Offices. (See 149.341 for locations.)

(6) On claims for loss of insured articles, it is not necessary to again obtain evidence that the addressee had not received the article. This was provided when the original claim was filed.

b. *Receiving Post Office*

Upon receipt of a duplicate claim form set, the post office which serves the second customer will *within five days:*

(1) Verify delivery records for numbered insured or COD mailings.

(2) Make a positive effort to contact the addressee to verify delivery or non-delivery of all claims for complete loss (phone call is acceptable). Check post office records of parcels returned to the mailer. Annotate the findings, including telephone information, in item 23 of Form 3812. Detach Form 3841 and file alphabetically by mailer's name. Send claim to the St. Louis PDC for adjudication.

(3) For damage or partial loss claims, obtain the required information and signatures. Detach Form 3841 and file alphabetically by mailer's name. Send claim to the St. Louis PDC.

(4) Do not allow duplicate claims to be removed from Postal Service control.

.353 Verifying Delivery

a. *Accepting Post Office*

Verify delivery record on all numbered insured (except APO/FPO) and COD loss claims. (Do not verify delivery record on unnumbered loss, damage, or duplicate claims.) Follow these procedures:

(1) Numbered Insured

Send the complete claim form set (Form 3812 and two Form 1510-A's), with the evidence that the addressee did not receive the article, directly to the post office of address.

(2) COD Loss

Detach the first copy of Form 1510-A from the claim set (Form 3812); date stamp and mail to the postmaster at the office of address. Mail the remainder of the claim set to the addressee (see 149.333c).

b. *Postmaster at Post Office of Address*

Upon receipt of a Form 1510-A or the claim form set from the accepting postmaster, take the following action within *five days:*

(1) *Check Delivery Record*

Check delivery record (Form 3849, *Notice of Mail Arrival or Attempted Delivery*, or Form 3883, *Firm Delivery Book*) to verify whether or not the article was delivered. When COD claims are received, search the tag file; if no record is found, search the file of Forms 3814 at main office, station or branch involved. Check delivery records beginning the date of mailing and continuing for the next 30 calendar days. Follow these procedures, as appropriate:

(a) *No Record*

If there is no record of delivery, annotate the right hand blank portion of the Form 1510-A or Item 23 on Form 3812, *No Record*, initial, and date stamp.

(b) *Record Is Found*

If there *is a record* of delivery, date stamp, write the date of delivery, to whom delivered, and indicate any unusual delivery conditions on the right hand blank portion of the Form 1510-A or in Item 23 on Form 3812. For COD's, write the date of delivery, indicate any unusual delivery conditions, and furnish the money order number(s). If none were issued, so indicate. Attached a copy of Form 3818 if applicable.

(c) *Parcel Returned or Refused*

If the parcel (insured or COD) was returned to sender or refused, indicate this on the right side blank portion of the Form 1510-A or in Item 23 on Form 3812. Date stamp and return to the mailing postmaster for verification of return. The mailing postmaster will indicate (also on the right side blank portion of Form 1510-A or in Item 23 of Form 3812) whether or not he has a record of return, provide the date returned to the sender, and date stamp.

(d) *Article Forwarded*

If the article was forwarded to another post office, show the forwarding address and date on the 1510-A. Send the 1510-A to that office.

(2) *Signature*

The signature of the searching employee must be placed by the office date stamp.

(3) *Forwarding*

Batch and return Forms 1510-A and Forms 3812 claim form sets daily to: Director, Postal Data Center, P.O. Box 14677, Attn: VDR, St. Louis, MO 63180.

c. *APO/FPO Claims*

(1) Send APO/FPO numbered insured loss claims to the appropriate port post

office with Forms 1510–A and 3841 attached (see 149.333c).

(2) Send APO/FPO damage claims to the addressee with both copies of 1510–A attached.

(3) Send APO/FPO duplicate claims to the addressee's port post office with Forms 1510–A and 3841 attached (see 149.333c).

149.4 Registered Mail Claims

.41 How to File

.411 Required Forms

A customer may file a claim at any post office, classified station or branch. Form 565, *Registered Mail Application For Indemnity*, dated October 1973 or later, must be used to file a claim for loss or damage of registered mail. DO NOT COMPLETE A SEPARATE FORM 1510–A OR 3841 FOR REGISTERED CLAIMS. A claim has not been filed until a completed Form 565 has been received by the Postal Service.

.412 How to Complete Form 565

a. *Items 2–9 and 13–22 or 24–27*

Form 565 must be completed by typewriter or ball point pen. The accepting postal employee, with the assistance of the claimant, will complete Items 2 through 10 and Items 13 through 23 or 24 through 27, of Form 565, *Registered Mail Application For Indemnity*. Complete Items 2 through 9 and 13 through 27 as follows:

Item 2. Enter the name, address, and ZIP Code of the mailer.

Item 3. Enter the name, address and ZIP Code of the addressee.

Note.—Be sure to check the *Payee* block in either Item 2 or 3 to indicate who should receive the indemnity payment.

Item 4. Enter the register number.

Item 5. Check the appropriate block to indicate the type of claim.

Item 6. List and describe the lost, missing or damaged articles. For damage claims, describe packaging in detail.

Item 7. Enter the total amount claimed, excluding postage.

Item 8. For damage claims only, list location of the damaged articles.

Item 9. Indicate if the article was commercially insured. If yes, give the policy number, name and address of the insurance company and the amount of the deductible, if appropriate.

Item 11. The addressee must complete this block.

Items 13–22 or 24–27. Enter the required information. Use the mailer's original registered mail receipt for this information. Reproduced copies are not acceptable. Verify this information against the post office record.

b. *Endorsements and Signatures (Items 10 or 12; 23 or 28)*

The accepting post office employee will endorse post office record and customer's original mailing receipt *Claim Filed*, then date and sign. Have the claimant sign, date and enter telephone number on the claim either in Item 10 or 12, whichever is appropriate. Also, the postmaster, or his designated representative, must date and sign the form either in Item 23 or 28, whichever is appropriate.

c. *Claim Identification*

The claimant must complete the identification section at the bottom of the claim form. The individual listed on the identification section must be either the person listed in Item 2 or 3.

.42 Disposition of Damaged Article See 149.6.

.43 Processing Form 565

.43 Send claim form and documentation to the second post office for completion of the claim form.

.44 Additional Post Office Responsibilities

.441 Claim Form Initiated at Another Office

a. *Mailing Office (Sent From Address Office)*

(1) Request the mailer to appear with the necessary documentation. *DO NOT RELEASE THE CLAIM FORM TO THE MAILER.*

(2) Complete claims for damaged registered articles received from the office of address by having mailer sign, date and enter telephone number on the claim in Item 10. Complete Items 13 through 23.

(3) Endorse the original registered mail receipt *Claim Filed*, date and sign. Return the receipt to the customer and instruct him to keep it until the claim is settled. Customers using firm mailing books must submit the original copy. Reproduced copies are not acceptable.

(4) If the form is complete (including those claims for registers declared at NO VALUE), dispose of as follows (DO NOT SEPARATE PARTS OF FORM REMAINING):

(a) forward all claims for alleged wrong delivery, alleged rifling and no value loss to the local postal inspector-in-charge. Endorse the envelope, *Form 565.* Rifled envelope or package must accompany claim file.

(b) Send claims for damage and for loss with value to the Director, Postal Data Center, P.O. Box 14632, St. Louis, MO 63180. Endorse envelope, *Form 565.*

b. *Address Office (Claims Sent From Mailing Office)*

(1) When a claim is for loss, search files (Forms 3849, Delivery Notice or Receipt; 3883, Firm Delivery Book; 3887, Registered And Certified Matter Received For Delivery; and manifold bills) for record of receipt and/or delivery and endorse claim form to indicate results (Item 27).

(2) Request the addressee to appear. DO NOT RELEASE THE CLAIM FORM TO THE ADDRESSEE.

(3) If the claim is for damage and the addressee has possession of the damaged article, the article and the packaging must be presented for inspection and retained by the post office until released by the PDC.

(4) Complete the claim form (Items 24 through 27).

(5) If Form 565 is incomplete, return to postmaster, office of mailing. If Form 565 is complete, follow instructions in 149.441a(4) (a) or (b) for disposition.

(6) All portions of the claim form must be completed within *seven (7) days* after receipt and forwarded to the St. Louis PDC or the Inspection Service, whichever is applicable.

.442 Inquiries and Duplicate Claims

a. *Inquiries*

(1) *Memorandum*

Provided at least three months but not more than six months have elapsed since the claim was initiated, process the customer's inquiry by sending a memorandum requesting status to the: Postal Data Center, P.O. Box 14632, St. Louis, MO 63180.

Note.—The memorandum must identify: the nature of loss, registration number, the addresses of both mailer and addressee, the date of mailing, and date the claim was filed.

(2) *Follow-ups*

Depending upon the response from the PDC, proceed as follows:

(a) If the PDC indicates that the claim has been received, annotate the Form 3841 and inform the customer who initiated the inquiry.

(b) If the PDC has no record of the claim, they will provide further instructions.

b. *Duplicate Claims*

(1) *Restrictions*

Duplicate claims must not be accepted or submitted unless requested by the St. Louis PDC or the Office of Mail Classification, USPS Headquarters.

(2) *Processing Duplicate Claims*

What instructed, the initiating post office will prepare and process a duplicate claim as follows:

(a) Use the information on the original Form 3841–A to complete as much of the duplicate Form 565 as possible. The signature of the customer who initiated the claim and the supporting documents are not necessary.

(b) Mark the top of the Form 565 *Duplicate.*

(c) Annotate the original Form 3841–A to indicate that a duplicate claim has been initiated and the date forwarded to the second post office.

(d) Process through normal channels.

149.5 Express Mail Claims

.51 How To File

.511 Who May File

Claims may only be filed by the mailer at the post office that accepted the Express Mail shipment. See 294 and 295.

.512 Required Forms

Claims for loss or damage filed by the mailer must be filed on Form 5690, *Express Mail Application For Indemnity*. A claim has not been filed until a completed Form 5690 has been accepted by the Postal Service.

.513 When to File

a. *Loss Claims*

All claims for loss may be filed no earlier than seven days following the date of mailing, and all claims must be filed not later than 60 days from the date of mailing.

b. *Damage Claims*

Claims for damage should be filed immediately, but must be filed no later than 60 days from the date of mailing.

.514 Required Information

a. *General*

The mailer or addressee must present the damaged article and packaging at the post office when the claim is filed. The mailer must also present the customer copy of the mailing label at the time the claim is filed. The customer copy of the mailing label must be attached to the claim form at the time the claim is filed.

b. *Merchandise and Document Reconstruction*

In the event claims are required for both Merchandise Insurance and Document Reconstruction Insurance on the same shipment, two Forms 5690 must be completed and processed. Complete documentation must be attached to each claim form, supporting the type of loss or damage claimed. The two claims must be submitted together.

.52 Disposition of Damaged Article

See 149.6.

.53 Adjudication

The St. Louis PDC (or the Office of Mail Classification, USPS Headquarters, at its discretion) will adjudicate and pay or disallow all Express Mail claims.

149.6 Disposition of Damaged Articles

For a completely damaged article that will have little or no salvage value (such as smashed glassware), allow the customer to retain the article if he or she so desires; otherwise destroy it. If the completely damaged article will have salvage value, retain it for 90 days, then forward it to your dead parcel post branch (see 159.561b) on the next weekly dispatch. Use Form 3831, *Receipt for Article(s) Damaged in Mails*. If the customer's claim is denied, the article must be returned upon request. For registered mail damage claims, the article and the packaging must be retained and protected at the post office until released by notification from the St. Louis PDC.

149.7 Payment Conditions, Recovery of Articles, and Reimbursement

.71 Payment Conditions

.711 Insufficient Fee

If, through established error by the Postal Service, a fee was charged which was less than that required to cover the amount of insurance coverage requested at the time of mailing, the mailer may be permitted to pay the deficiency in fee. Indemnity may be paid within the limit fixed for the higher fee. This only applies to the insurance fee when the article is insured. An additional fee may not be paid to register an article previously insured or to increase the indemnity on the registered article.

.712 Commercial Insurance

If commercial insurance is carried on a registered, insured, COD or Express Mail article, the total amount of insurance to be paid will be prorated between the Postal Service and the insurance company using the following formula:

$$\frac{\text{Postal Insurance or Actual Value (whichever is less)}}{\text{Postal Insurance or Actual Value (whichever is less)} + \text{Total Private Insurance}} \times \text{Actual Value or Cost of Repairs} = \text{POSTAL LIABILITY}$$

a. *Postal insurance* is the amount of insurance included under the fee paid, but cannot exceed the first $1,000 of value on registered mail articles. The postal insurance formula is reduced by any deductible amount contained in the commercial policy.

b. *Actual value* is the value of the article at the time of mailing.

c. *Total private insurance* is the amount of commercial insurance that applies to the article.

d. *Cost of repairs* is the amount paid for repairs, not to exceed the value of the article at the time of mailing.

e. In all cases of commercial co-insurance on registered mail, the formula applies only to the first $1,000 of value.

f. If the deductible amount of a commercial policy exceeds $1,000, the Postal Service will pay a deductible amount up to the Postal Service limits of liability, if the appropriate fees have been paid for registered mail.

.713 Loss or Total Damage

If the insured or COD article was lost or the *entire* contents totally damaged, the payment will include an additional amount for the postage (not fee) paid by the mailer.

.714 Mailer and addressee Claim Insurance

If both mailer and addressee claim insurance, they should decide between themselves who should receive payment. If no agreement is reached, payment will be made to the mailer, if a payment is due.

.715 Incompetent or Deceased Payee

If the payee is incompetent or deceased, payment will be made to the legal representative. If there is no legal representative, payment will be made to such relative or representative of the payee as is entitled to receive the amount due, in accordance with applicable State laws.

.72 Disposition of Recovered Article

When a lost registered, insured, COD or Express Mail article is recovered, the payee may accept the article and reimburse the Postal Service for the full amount paid if the article is undamaged, or for such other amount as may be determined by the Director, Office of Mail Classification, USPS Headquarters, if the article is damaged, has depreciated in value, or the contents are not intact.

.73 Reimbursements

.731 Reimbursement Tendered

If reimbursement is tendered representing an overpayment, erroneous or improper indemnity claim payment, or a voluntary indemnity refund, postal personnel will accept it and issue a receipt. Send all reimbursements to the St. Louis PDC, with all claim identifying information. Personal checks, money orders, or other negotiable instruments should be made payable to the Postal Service. If the instrument is made payable to the postmaster, he must sign his name and restrictively endorse it *Pay to Postal Service*, and remit as above. Do not mark an entry in the cashbook.

.732 Reimbursement Not Tendered

When an overpayment, erroneous, or improper indemnity claim payment is disclosed and repayment is not tendered, report it to the Director, St. Louis PDC, by memorandum, so it may

be placed under accounts receivable control by the PDC.

149.8 Appeals and Postal Service Authority

.81 Appeals

All appeals of Postal Service claim decisions must be filed within three months of the date of the original decision. Appeals must sent to: Postal Data Center, P.O. Box 14677, St. Louis, MO 63180.

.82 Postal Service Authority

The requirements established in Part 149 may be waived in favor of the customer when the Director, Office of Mail Classification, USPS Headquarters, determines it is in the best interest of the Postal Service.

An appropriate amendment to 39 CFR 111.3 to reflect the changes will be published if these proposals are adopted.

[39 U.S.C. 401, 404]

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 81-4065 Filed 2-4-81; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 1747-5]

State of Alaska's Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This Notice is to invite public comment on EPA's proposal to approve a revision to the State of Alaska State Implementation Plan (SIP). This revision has been submitted to comply with EPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. EPA has determined that the plan meets requirements for the monitoring, network design, instrument probe siting criteria, monitoring methods to be used, and establishing a quality assurance program.

DATE: Comments will be accepted up to March 9, 1981.

ADDRESSES: The related material in support of this revision may be examined during normal business hours at the following locations:

Central Docket Section (10A-80-18), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Streets, SW, Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811.

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: William B. Schmidt, Air Programs Branch, M/S 345, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1106, FTS: 399-1106.

SUPPLEMENTARY INFORMATION: Section 319 of the Clean Air Act as amended, requires the Environmental Protection Agency (EPA) to establish monitoring criteria to be followed uniformly across the nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), EPA, on May 10, 1979 (44 FR 27558) promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision of the plan which will:

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

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Alaska's Air Quality Monitoring Network

On January 20, 1980, the State of Alaska's Department of Environmental Conservation (DEC) submitted to EPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the criteria pollutants: Total suspended particulates (TSP), sulfur dioxide (SO_2) and carbon monoxide (CO) and ozone (O_3).

The Alaska monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Alaska Air Monitoring Network with adjustments and additions made where necessary.

Besides establishing the SLAMS and NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used to fill special monitoring study needs. If data are to be used for support of control strategies, determination of attainment/nonattainment, or air dispersion modeling validation, the monitors will be reference or equivalent, sited according to Appendix E to 40 CFR Part 58 and follow the quality assurance procedures of Appendix A to 40 CFR Part 58.

The SIP states that specific SLAM sites will be designated as Episode

Monitoring Sites (EMS). These stations will be visited daily during the work week to ascertain proper operation and to detect elevated values. In the event an episode is declared, the pollutant(s) of concern will be followed continuously until episode termination.

All SLAMS in the Alaska monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating SLAMS and processing air quality data. The air monitoring network will be reviewed, annually to eliminate any unnecessary SLAMS, add necessary SLAMS and to correct inadequacies. All proposed changes to the network will be reported to and discussed with the EPA Regional Office before changes are made.

Included as part of the SIP revision is a description of the proposed NAMS network. This description covers the existing proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

EPA has reviewed the submittal and has determined that it meets the requirements of Sections 110 and 319 of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 58. EPA is therefore proposing approval of the revised Alaska Air Quality Monitoring Plan.

Interested persons are invited to comment on the Alaska SIP revision and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before March 9, 1981, will be considered in EPA's final rulemaking. All comments received will be available for inspection at the EPA offices listed above.

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) The public has had adequate notice of the guidelines for preparation of Part 58 plans and (2) the impact of this rulemaking is limited only to the State of Alaska. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of the Part 58 revision for the State of Alaska to Title 40 of the Code of Federal Regulations.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

(Sec. 110, 172, of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: January 28, 1981.

Donald P. Dubois,

Regional Administrator.

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

Subpart WW—Alaska

In § 52.70, (c)(9) is added as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(9) On January 20, 1980 the State of Alaska Department of Environmental Conservation submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C, § 58.20.

[FR Doc. 81-4200 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1747-2]

Proposed Disapproval of Administrative Order Revising the Illinois State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: U.S. Environmental Protection Agency (EPA) proposes to disapprove a variance submitted by the Illinois Environmental Protection Agency (IEPA) as a revision to the Illinois State Implementation Plan (SIP). The revision, a variance issued to the Clark Oil and Refining Corporation's Blue Island facility, did not contain a demonstration that the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO2) would be protected during the period of the variance. The purpose of this notice is to solicit public comment on USEPA's proposed disapproval of the variance.

DATE: Written comments must be received by March 9, 1981.

ADDRESSES: Copies of the SIP revision, USEPA's evaluation and public comments received are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

In addition, copies of the revision are available for public inspection at the following address: Illinois Environmental Protection Agency, Air Quality Division, 2200 Churchill Road, Springfield, Illinois 62706.

WRITTEN COMMENTS SHOULD BE SENT TO: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On February 25, 1980, the Illinois Environmental Protection Agency (IEPA) submitted to EPA a revision to the Illinois SIP. The revision, a variance issued to the Clark Oil and Refining Corporation's Blue Island facility, allow the facility until June 30, 1981 to come into compliance with Illinois Air Pollution Control Regulation Rule 204(f)(1)(A). The facility is located in a designated unclassifiable area for sulfur dioxide. The SIP revision did not include a demonstration that the SO2 NAAQS would be protected during the period of the variance. Without such a demonstration, EPA is unable to determine if the variance meets the requirements of the Clean Air Act, 42 U.S.C. 7410. EPA is therefore proposing disapproval of this variance as a revision to the Illinois SIP.

All interested persons are invited to comment on these revisions to the Illinois SIP and on EPA's proposed disapproval. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before 30 days from today's date will be considered in EPA's final rulemaking. All comments received

will be available for inspection at the Regional V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Because this action disapproves a state action the existing federal SIP remains in effect. Therefore, this action imposes no new requirement. Moreover, due to the nature of the federal-state relationship, federal inquiry into the economic reasonableness of the state actions would serve no practical purpose and could well be improper. In addition, this action only applies to one facility.

Under Executive Order 12044 (43 FR 12661), EPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels such proposed regulations as "specialized." I have reviewed this and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: January 6, 1981.

John McGuire,

Regional Administrator.

[FR Doc. 81-4190 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1748-2]

Ambient Air Quality Monitoring, Data Reporting and Surveillance Provisions for the State of Indiana

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve the portion of Indiana's State Implementation Plan which has been revised to comply with USEPA regulations contained in 40 CFR Part 58. The revision provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. USEPA has determined that the plan meets the requirements for quality assurance of the monitoring stations, network design and probe siting criteria, and monitoring methods.

DATE: Comments must be submitted by no later than March 9, 1981.

ADDRESS COMMENTS TO: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Stephen Goranson, Chief, Air Monitoring Staff, U.S. Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, Illinois 60605, (312) 886-6226.

Copies of the requests for the State Implementation Plan (SIP) revision and supporting documents are available at the address cited above and at:

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Indiana Air Pollution Control Board, 1330 West Michigan Street, Indianapolis, Indiana 46206

SUPPLEMENTARY INFORMATION:

Requirements for Air Quality Monitoring Network

Section 319 of the Clean Air Act, as amended, requires the United States Environmental Protection Agency (USEPA) to establish monitoring criteria to be followed uniformly across the Nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), USEPA, on May 10, 1979 (44 FR 27558), promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations evoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR 58.20 requires that the State adopt and submit to the Administrator a revision to the SIP which will:

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

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Indiana's Air Quality Monitoring Network

In February, 1979 the State of Indiana submitted to USEPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the following criteria pollutants: total suspended particulate, sulfur dioxide, nitrogen dioxide, carbon monoxide, and ozone.

The Indiana monitoring SIP commits the State to the implementation of a statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Indiana Air Monitoring Network with adjustments and additions made where necessary.

Besides establishing the SLAMS and the NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used to fill special monitoring study needs. If data are to be used for support of control strategies, determination of attainment/nonattainment, or air dispersion modeling validation, the

monitors will be reference or equivalent, sited according to Appendix E to 40 CFR Part 58 and follow the quality assurance procedures of Appendix A to 40 CFR Part 58.

The SIP states that at least one SLAM site will be designated as an episode station for each pollutant in areas required by 40 CFR 51.16.

All SLAMS in the Indiana monitoring system will be operated in accordance with the criteria in Subpart B of 40 CFR Part 58. Each SLAM monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures given in 40 CFR Part 58, Appendix A will be followed when operating SLAMS stations and processing air quality data. The air monitoring system will be reviewed annually and any necessary modifications will be reported to USEPA by July 1 of each year. These annual reviews are necessary to eliminate any unnecessary stations and to correct inadequacies in the network.

The SIP revision includes a description of the propsed NAMS network. This description covers the proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

USEPA has reviewed the submittal and has determined that it meets the requirements of sections 110 and 319 of the Clean Air Act, as amended, and USEPA regulations in 40 CFR Part 58. USEPA is therefore proposing approval of the revised Indiana Air Quality Monitoring Plan.

Interested persons are invited to comment on the revised Indiana SIP and on USEPA's proposed actions. Comments should be submitted to the address listed at the beginning of this Notice. Public comments received on or before March 9, 1981 will be considered in USEPA's final rulemaking. All comments received will be available for inspection at USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

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

This Notice of Proposed Rulemaking is issued under the authority of section's 110 and 319 of the Clean Air Act, as amended.

Dated: January 27, 1981.

John McGuire,

Regional Administrator.

[FR Doc. 81-4431 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-7-FRL 1747-3]

Approval and Promulgation of State Implementation Plans: Nebraska

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On September 25, 1980 and July 31, 1979, Governor Charles Thone submitted proposed revisions to the Nebraska State Implementation Plan (SIP) for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP) and carbon monoxide (CO) in areas of the state which presently exceed the standard. These revisions were submitted to the Environmental Protection Agency (EPA) to meet the requirements of Part D of Title I of the Clean Air Act, as amended in 1977. The notice provides a description of the proposed SIP revisions, summarizes the Part D requirements, compares the revisions to these requirements, identifies major issues in the proposed revisions and suggests corrective actions, where appropriate. Regulations addressing requirements published by EPA on August 7, 1980, affecting new source review in nonattainment areas are also discussed.

EPA invites public comment on these revisions, the identified issues, the suggested corrections, and the question of whether the revision should be approved as submitted by the state, approved after making the suggested corrections, or disapproved.

DATES: An Advance Notice of Proposed Rulemaking published on November 4, 1980 officially opened the comment period on this action. Comments received on or before March 9, 1981, will be considered in EPA's final decision on approval or disapproval of the SIP.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

Environmental Protection Agency, Public Information and Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460;

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509;

Lincoln-Lancaster County Air Pollution Control Agency, 2200 St. Mary's Avenue, Lincoln, Nebraska 68502;

Permits and Inspection Division, Housing and Community Development Department, 1819 Farnam, Room 402, Omaha, Nebraska 68102;

Lincoln-Lancaster County Planning Commission, 555 South Tenth Street, Lincoln, Nebraska 68508;

Omaha-Council Bluffs Metropolitan Area Planning Agency, 7000 West Center Road, Omaha, Nebraska 68016.

All comments should be directed to: Eloise Reed, Environmental Protection Agency, Region VII, Air, Noise and Radiation Branch, 324 E. 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Eloise Reed at (816) 374-3791 (FTS: 758-3791).

SUPPLEMENTARY INFORMATION:

Background

Amendments to the Clean Air Act, enacted in August 1977, Pub. L. No. 95-95, required States to revise their SIPs for all areas where NAAQS had not been attained. The Administrator promulgated lists of these areas on March 3, 1978 (43 FR 8962) and on September 12, 1978 (43 FR 40502). Several areas in Nebraska were designated as nonattainment for total suspended particulates (Douglas, Cass and Sarpy Counties), carbon monoxide (Lincoln and Omaha) and ozone (Omaha). Consequently, the State of Nebraska was required to develop and adopt SIP revisions to bring these areas into compliance with the applicable standards.

Based on the final attainment designations, Nebraska is now submitting plans to attain the primary particulate standard in Douglas, Cass and Sarpy Counties and the carbon monoxide standard in Omaha. Requests from the state of redesignation are discussed in descriptions of the submittals for the appropriate pollutant. EPA is proposing action on these redesignation requests under 40 CFR Part 81 in a separate **Federal Register** notice. The proposed rulemaking for the Lincoln CO plan appeared at 44 FR 65408. Final action on the Lincoln CO plan will be published at a later date. Due to a change in the federal ozone standard, EPA intends to propose action on the Omaha designation for ozone in a separate notice.

On September 25, 1980 and July 31, 1979 the state also submitted regulatory revisions to the SIP to address attainment and maintenance of NAAQS in the designated nonattainment areas. The submitted regulations are Rule 4, "New and Complex Sources; Standards of Performance, Application for Permit When Required," Rule 5A, "Controls for Transferring, Conveying, Railcar and Truck Loading at Rock Processing Operations in Cass County," Rule 3, "Reporting and Operating Permits for Existing Sources; When Required," and Rule 1 "Definitions." The state was advised of deficiencies to Rule 4, as discussed in this notice, and was proceeding to make the necessary changes. Meanwhile, on August 7, 1980, EPA published regulatory changes affecting new source review in nonattainment areas (45 FR 52676), requiring that states submit SIPs by May 7, 1980, to address these changes. Consequently, Nebraska's new source review regulation, and Rules 1 and 3 underwent revisions designed to comply with all Part D requirements and with the August 7, 1980 regulations for new source review in nonattainment areas. The revisions are scheduled to go to public hearing on March 6, 1981, along with an air quality modeling report for Omaha and a revision to Rule 6 to represent reasonably available control technology (RACT). EPA's discussion of these corrections to deficiencies is based on the existing regulations as modified by the draft submittal. Proposed approvals of Part D requirements involving these drafts are based on submittal of final regulations substantially unchanged from the drafts.

The requirements and criteria these revisions must satisfy are described or referenced in a **Federal Register** notice published on April 4, 1979 (44 FR 20372) entitled, "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas," and supplemented on July 2, 1979, (44 FR 38583) August 28, 1979, (44 FR 20372), September 17, 1979 (44 FR 53761), and November 23, 1979. The July 2, 1979 supplement involves, among other things, conditional approval of nonattainment plans.

EPA may conditionally approve a plan where there are minor deficiencies and the state provides assurances that it will submit corrections by specified deadlines. A conditional approval would mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

Conditional approval is a possibility for certain provisions of the Nebraska SIP. However, EPA does not plan to take final action on the SIP until the major deficiency, lack of an approvable new source review regulation, is addressed satisfactorily. The state has indicated that corrections to the deficiencies in its new source review regulation can be made by May 15, 1981. If the state adopts and submits the identified new source review corrections, EPA can take final action on the SIP, including conditional approvals as discussed in this notice, and remove the growth restrictions if the SIP is approved. The growth restrictions will remain in effect in primary standard nonattainment areas until such action is taken.

The "General Preamble" and its supplements relating to approval of implementation plans for nonattainment areas, are incorporated herein by reference.

Terms. As used in this notice, a "design value" is the level of existing air quality used as a basis for determining the amount of change in pollutant emissions which is necessary to attain a desired air quality level. "Rollback" is a proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard.

Existing Nebraska Rules 5, 6, 7, 13 and 14, referenced in this rulemaking as contained in the Nebraska State Implementation Plan, are:

Rule 5, "Process Operations; Particulate Emissions Limitations for Existing Sources"

Rule 6, "Fuel Burning Equipment; Particulate Emission Limitations for Existing Sources"

Rule 7, "Incinerators; Emission Standards"

Rule 13, "Visible emissions; Prohibited"

Rule 14, "Dust; Duty to Prevent Escape of"

Section 172 of the Act contains the requirements for nonattainment plan revisions. The requirements of Section 172 are listed below following a description of each plan, along with a discussion of how the Nebraska plan addresses each. Discussion of the requirements of Section 172(b)(1), (b)(9), (b)(11) and (c) is included under "General Comments".

Carbon Monoxide-Omaha

The Omaha nonattainment status was determined because the national CO standard for eight-hour average concentration, nine parts per million, was exceeded during the design year 1978 a number of times with the second highest measured level being 11.8. A 23.7 percent reduction of CO needs to be achieved by December 31, 1982 in order to attain the national standard.

A rollback method was used to determine whether the Omaha area would be able to meet the national standard. This method was used because the revised EPA mobile source emission factors computer program MOBILE 1 was delayed in being integrated into the Kansas Air Pollution Package (KAPP) air quality diffusion model, which has been used in Omaha in the past. Through use of rollback the SIP indicates that benefits gained from the Federal Motor Vehicle Emission Control Program (FMVCP) alone between 1978 and 1982 will allow the Omaha area to achieve a 24.3 percent reduction in CO levels by December 1982.

Detailed air quality diffusion modeling was conducted by the state to verify these results using the KAPP model with the Mobile 1 program incorporated into it. The final report submitted to EPA on October 6, 1980 and supplemented with a cover letter dated November 17, 1980, verifies the finding of attainment determined by the rollback method.

Demonstration of Attainment. Section 172(a)(1) requires the plan to provide for attainment of NAAQS as expeditiously as practicable. Primary standards are to be met no later than December 31, 1982.

A satisfactory preliminary demonstration of attainment by the end of 1982 using the rollback method was provided by the Metropolitan Area Planning Agency (MAPA), which prepared the CO SIP and coordinated completion of the air quality diffusion modeling report by the Nebraska Department of Roads. The report has not been adopted by the state yet.

The calibrated KAPP model was used to forecast 1982 CO levels based on the forecasted 1982 traffic volumes, the emission rates in the MOBILE 1 program and the meteorological conditions used in the calibration process.

The results of applying the KAPP air pollution diffusion model shows that the Omaha area will attain compliance with the national eight-hour average concentration standard for carbon monoxide of nine parts per million. The forecasted increase in vehicle miles traveled is counteracted by lower emissions resulting in an overall improvement in the level of CO. Expeditious attainment is addressed below under "Reasonably Available Control Measures."

Proposed Action. EPA proposes to conditionally approve the Omaha CO SIP revision as meeting the requirements of Section 172(a)(1), allowing the state until May 15, 1981 to adopt and submit

the Omaha air quality modeling report substantially as described above.

Attainment Date Extensions. Section 172(a)(2) authorizes an extension of the attainment date to not later than 1987 for CO and ozone if the state demonstrates the standards cannot be met by 1982 despite implementation of reasonably available control measures.

Nebraska has demonstrated through the rollback technique that the CO standard will be attained by 1982 and has not requested an extension. Air quality modeling verifies this preliminary demonstration. The provisions of Section 172(a)(2) are not applicable.

Reasonably Available Control Measures. Section 172(b)(2) requires SIPs to provide for the implementation of all reasonably available control measures as expeditiously as practicable.

The state maintains and EPA has determined that existing state regulations require measures which represent RACT. In addition, the November 17, 1980, supplement to the Omaha CO modeling report discusses on-going transportation control measures in the Omaha area which the state estimates will help maintain the CO standard, but would have only minimal air quality benefit. Many of the measures will not be fully implemented before the end of 1982. The measures include a ride sharing program, an expanded public transit program utilizing park-and-ride lots, and computerization of traffic signals for Omaha. Other transportation measures which are being considered are high occupancy vehicle lanes, variable work hours, and bike lanes.

An inspection and maintenance program was not considered because it could not be implemented before the end of 1982 and would not be cost effective considering the small magnitude of CO reductions needed to meet the standard.

EPA believes that the state has demonstrated expeditious attainment of the CO standard in the Omaha area before the end of 1982 through benefits derived from the FMVCP alone. Additional on-going transportation measures may result in additional emission reductions, however, the additional emission reductions before 1982 would be so small that the standard would not be attained appreciably faster.

MAPA will be conducting future evaluations using the KAPP diffusion model to analyze CO attainment and maintenance beyond 1982 and through 1987. This analysis will look at not only changes in the emission rates, but also the effect of additional controls and transportation measures which should be fully implemented by then.

Proposed Action. EPA proposes to approve the Omaha CO SIP as meeting the requirements of Section 172(b)(2).

Reasonable Further Progress. Section 172(b)(3) requires reasonable further progress toward attainment, including regular, consistent reductions sufficient to assure attainment by the required date.

The state has submitted an RFP demonstration for the Omaha area in the draft Omaha CO modeling report based on the application of the KAPP model. The curve shows the CO level for the end of 1982 to be 7.7 parts per million (1.3 parts per million below the standard for eight hour concentration). EPA has reviewed the RFP curve and has found it to be adequate.

Proposed Action. EPA proposes to approve the Omaha CO SIP as meeting the requirements of Section 172(b)(3), allowing the state until May 15, 1981, to adopt and submit the RFP demonstration based on application of the KAPP model substantially as described above.

Emission Inventory. Section 172(b)(4) requires the plan to include a comprehensive, accurate, and current inventory of all sources of each pollutant for which an area is designated nonattainment.

The plan includes a reasonably accurate and current categorical emission inventory for CO, identifying emission source categories and present emissions. The state also commits to update the inventory.

Proposed Action. EPA proposes to approve the Omaha CO SIP revision as meeting the requirements of Section 172(b)(4).

Emissions Growth. Section 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

Emission offsets and compliance with the lowest achievable emissions rate are required in Rule 4 before obtaining a construction permit for a new major source or major modification. The emission offsets are required in the rule to be submitted as SIP revisions to ensure federal enforceability. The state intends to comply with Section 173(1) which deals with conditions for issuance of permits by use of emission offsets and does not include margins for growth in the plan. Therefore, the state is not required to identify a margin for growth for Douglas County.

Proposed Action. EPA proposes to approve the Omaha CO SIP as meeting the requirements of Section 172(b)(5).

Permit Requirements. Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified major stationary sources in accordance with Section 173 (relating to permit requirements).

Rule 4 contains the provisions required in Section 173. It provides for offsets in the nonattainment areas, requires the lowest achievable emission rate for new sources, and requires a certification by owners of new sources that all existing sources are in compliance.

Rule 4, however, is applicable to sources which are required to report in Rule 3 of the Nebraska SIP, "Reporting and Operating Permits for Existing Sources; When Required". However, CO sources are not expressly required to report unless notified to do so by the Nebraska Department of Environmental Control. The state has revised Rule 3 to make it applicable to all processing machines, equipment, devices or other articles or combinations thereof having a potential to emit 100 tons/year or more of carbon monoxide.

EPA will not take final action as proposed below until Rule 3 is adopted substantially as described in this notice and submitted to EPA.

Proposed Action. EPA proposes to approve the Omaha CO SIP as meeting the requirements of Section 172(b)(6), if the changes described in this notice are incorporated in the final rule submitted by the state.

Resources. Section 172(b)(7) requires the state to identify and commit the financial and manpower resources necessary to carry out the plan provisions.

Because the CO standard will be attained by December 1982 through benefits derived from controls on motor vehicles alone, no additional financial or manpower commitments are necessary.

Proposed Action. EPA proposes to approve the Omaha CO SIP as meeting the requirements of Section 172(b)(7).

Schedules. Section 172(b)(8) requires that a SIP contain emission limitations, schedules of compliance and such other measures as may be necessary to meet the national standard in the nonattainment area before the end of 1982.

The state has certified and EPA has determined that attainment of the CO standard in the Omaha area through benefits derived from the FMVCP and existing RACT requirements on stationary CO sources represent expeditious attainment. The SIP states

and EPA believes that on-going transportation control measures will provide only minimal emission reductions before the end of 1982 and will not result in attainment any faster than benefits from the FMVCP alone. No other measures are needed to meet the standard before the end of 1982.

Proposed Action. EPA proposes to approve the Omaha CO SIP as meeting the requirements of Section 172(b)(8).

Commitments. Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legal requirements and that the agencies responsible are committed to their implementation and enforcement.

Reductions from the FMVCP alone and existing CO emission requirements are shown to result in attainment before the end of 1982. No other measures are necessary for adoption. Rules 1, 3, 4 and 6 are to be heard at public hearing on March 6, 1981. EPA will not take the final action proposed below until Rules 1, 3 and 4 are adopted substantially as described in this notice and submitted to EPA.

Proposed Action. EPA proposes to approve the Omaha CO plan as meeting the requirements of Section 172(b)(10).

Total Suspended Particulates—Douglas County

Based on 1977 air quality data, the area encompassing Douglas and Sarpy Counties in Nebraska and Pottawattamie County in Iowa was originally designated as nonattainment for the primary TSP standard. Air quality data collected since 1977 and the findings of a study conducted for EPA by PEDCO Environmental indicated that only the areas in the vicinity of 11th and Nicholas Streets and 24th and "O" Streets in Omaha should be classified as nonattainment. The state has developed a control strategy and approach toward demonstrating attainment on the basis of these boundary and designation changes. EPA has proposed to redesignate the remainder of the area in 46 FR 7009. Until final approval of the redesignation, the state remains obligated to submit a Part D plan.

The emission inventories for 1977 were used in calculating the emissions reductions necessary for attainment of the primary standards in these two areas. A detailed evaluation of control measures adopted by the City of Omaha by resolution and the air quality benefits for each is presented, along with a schedule for implementing the control measures in the resolutions.

Demonstration of Attainment. Section 172(a)(1) requires the plan to provide for attainment of NAAQS as expeditiously as practicable. Primary standards are to be met no later than December 31, 1982.

Nebraska includes an approach to demonstrating attainment of the primary particulate NAAQS by the end of 1981 in the two areas which the state believes should be the only primary nonattainment areas in Omaha, 11th and Nicholas and 24th and "O" Streets, through commitment to an emissions reduction schedule from April 1980 to December 31, 1981. The schedule for these measures follows:

Element 1: Request for redesignation of Omaha's non-attainment areas forwarded to Environmental Protection Agency.

Done: October 17, 1979.

Element 2: Additional monitor already installed at 22nd and Charles Street which will increase monitoring by 50% (Formerly only monitors, 11th and Nicholas and 11th and Dodge, were within 1 mile of area). One more monitor will be installed north of 11th and Nicholas area, at approximately 11th and Locust, and Quarterly Evaluations by State and City to be started.

Date: April 1980 (has not been installed yet).

Element 3: Street cleaning Program will start.

Started: April 1980.

Completion: December 31, 1981.

Element 4: Hardsurfacing and Stabilization of exposed industrial areas is already underway. One man assigned full time on this strategy until all significant areas past problems have been corrected. Other inspectors will continue to include enforcement of this element in their work program.

Started: April 1980.

Completion: December 31, 1981.

Element 5: City asphalt plant at 11th and Nicholas surveyed to determine dust.

Started: May 1980.

Reduction Systems as determined will be installed or implemented.

Start Date: August-September 1980.

Completion: March 1981.

Element 6: Hard surfacing of dust access road at 11th & Locust and carry out.

Control to Start: April 1980 (Has not started).

Completion: August 1980.

Element 7: Stringent enforcement of dust control at construction and demolition sites.

Started: April 1980.

Ongoing.

Element 8: Street paving program in areas will be assigned high priority.

Date May 1980.

Ongoing.

A comprehensive assessment and evaluation of strategies will be carried out by state and local authorities.

Start Date: December 1980.

If attainment is not indicated, additional strategies indicated in resolution will be carried out

Start Date April 1981

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(a)(1).

Reasonably Available Control Measures. Section 172(b)(2) requires SIPs to provide for the implementation of all reasonably available control measures as expeditiously as practicable.

Nebraska states that all its existing major and minor sources are equipped with RACT for particulates as required by Rules 5, 6, 7, 13 and 14 of the Nebraska Air Pollution Control Regulations and corresponding sections of the Omaha Ordinance. In addition, Rule 11 prohibits open burning.

EPA, in evaluating these regulations, has determined that only Rule 6, "Fuel Burning Equipment; Particulate Emission Limitations for Existing Sources," does not represent RACT. The state is aware of this deficiency and has proposed to revise Rule 6 to make it more stringent by increasing the maximum total heat input from 3,800 (10^6) BTU to 10,000 or more (10^6) British Thermal Units (BTU).

The allowable emission rate for equipment having immediate heat input between certain limits is determined by the equation

$$A = \frac{1.026}{I^{.233}},$$

where A = the allowable emission rate in pounds per hour per million BTU, and I = the total heat input in million BTUs per hour. The new regulation would allow use of the equation to further limit emissions from units up to 10,000 (10^6) BTU (instead of the previous 3,800 (10^6) BTU), and result in a more stringent lower emission rate limit of .12 pounds per million BTU, rather than the .15 pounds per million BTU allowed under the current regulation.

EPA believes that this regulation would represent RACT. If the state finds that there are sources out of compliance with revised Rule 6, appropriate compliance schedules must be submitted for those sources.

The plan commits to control programs for nontraditional sources in and around the primary nonattainment areas, as listed under "Demonstration of Attainment".

The City of Omaha also commits in its resolution to conduct studies and evaluations of the on-going control measures during implementation to determine whether additional measures are needed for expeditious attainment, and to submit SIP revisions for

additional measures if they are found to be necessary.

Proposed Action. EPA proposes to conditionally approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(2), allowing the state until August 15, 1981, to adopt and submit Rule 6 revised as discussed above.

Reasonable Further Progress. Section 172(b)(3) requires reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date.

The State of Nebraska has submitted a graphical presentation of RFP for each primary nonattainment area. The RFP curves for each area is linear and represents the state's commitments to annual incremental reductions in TSP emissions. EPA has reviewed the RFP curves and has found them to be adequate.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(3).

Emission Inventory. Section 172(b)(4) requires the plan to include a comprehensive, accurate, and current inventory of all sources of each pollutant for which an area is designated nonattainment.

The plan presents a microinventory of the two primary TSP nonattainment areas and a 1977 point and area source emission inventory for Douglas County. The state also commits to update the inventory.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(4).

Emissions Growth. 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

Emission offsets and compliance with the lowest achievable emission rate are required in Rule 4 of the Nebraska Air Pollution Control Rules and Regulations before obtaining a construction permit for a new major source or major modification. The emission offsets are required in the rule to be submitted as SIP revisions to ensure federal enforceability. The state intends to comply with Section 173(1) which deal with conditions for issuance of permits by use of emission offsets and does not include margins for growth in the plan. Therefore, the state is not required to identify a margin for growth for Douglas County TSP.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(5).

Permit Requirement. Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified major stationary sources in accordance with Section 173 (relating to permit requirements).

Rule 4 contains the provisions required in Section 173. It provides for offsets in the nonattainment areas, requires the lowest achievable emission rate for new and modified sources, and requires a certification by owners of new sources that all existing sources in the state are in compliance, or on a schedule of compliance with applicable emission standards.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(6).

Resources. Section 172(b)(7) requires the state to identify and commit the financial and manpower resources necessary to carry out the plan provisions.

The SIP specifies that no additional resources are required by the City of Omaha to implement the control measures or to monitor progress, but does not provide verification that the projects have been entered into the budget for Omaha for the implementation period. Because the attainment and RFP demonstrations take credit for incremental reductions in emissions from six control measures adopted by the Omaha City Council, the state must provide verification that the city has or will have finances available and committed to those measures. The control measures include street cleaning, hard surfacing lots, chemical stabilization of exposed industrial areas, controlling major mud and dirt carryout sources, hard surfacing of access roads and paving unpaved streets.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(7), on condition that the state submit, by August 15, 1981, evidence that the necessary funding has been committed and is available for implementation of the plan.

Schedules. Section 172(b)(8) requires that a SIP contain emission limitations, schedules of compliance and such other measures as may be necessary to met the national standard in the nonattainment area before the end of 1982.

The SIP does not contain schedules of compliance for particulate sources because the state maintains that all such sources are in compliance with existing state Rules 5, 6, 7, 13 and 14 which require measures that represent RACT.

EPA has reviewed these regulations and has determined that Rule 6, "Fuel Burning Equipment; Particulate Emission Limitations for Existing Sources", does not represent RACT. The state is aware of this deficiency and has proposed to revise Rule 6 to make it more stringent by increasing the maximum total heat input from 3,800 (10^6) BTU to 10,000 or more (10^6) BTU.

The allowable emission rate for equipment having immediate heat input between certain limits is determined by the equation

$$A = \frac{1.026}{I^{.233}},$$

where A = the allowable emission rate in pounds per hour per million BTU, and I = the total heat input in million BTUs per hour. The new regulation would allow use of the equation to further limit emissions from units up to 10,000 (10^6) BTU (instead of the previous 3,800 (10^6) BTU), and result in a more stringent lower emission rate limit of .12 pounds per million BTU, rather than the .15 pounds per million BTU allowed under the current regulation.

EPA believes that this regulation would represent RACT. If the state finds that there are sources out of compliance with revised Rule 6, appropriate compliance schedules mut be submitted for those sources.

In addition, the plan must contain other measures as necessary. The state has submitted commitments for future studies and activities and the planned schedule for their implementation. The schedules contain key milestones to be used for evaluating progress, with a description of what must be accomplished at each milestone. The milestones are used in the state's RFP demonstration showing what reductions in emissions of TSP are predicted at each, and what total reductions are expected from implementation of the measures.

The City of Omaha commits to conduct an assessment of the impact of implementing those strategies described under "Demonstration of Attainment" concurrently with their implementation and to conduct an evaluation of their effectiveness. In the event the findings indicate additional controls are needed in the nonattainment area to meet the

standard by the end of 1982 beyond the strategies described, the city commits to additional control measures which may be found to be necessary. These would include additional controls on construction activities, scheduling additional unpaved roads for hard surfacing, curbing streets, and developing a schedule to either close or relocate the city asphalt plan if it is specifically found to be detrimental to expeditious attainment of the particulate standard. Should these additional measures be found to be necessary following the assessment, they must be submitted to EPA as a SIP revision, along with proof of commitment of the resources and adoption by the Nebraska Environmental Control Council.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(8).

Commitments. Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legal requirements and that the agencies responsible are committed to their implementation and enforcement.

The SIP contains a resolution adopted by the City of Omaha which commits the city to on-going and future activities for control of nontraditional sources as discussed above under "Schedules." Should additional control measures be necessary for attainment prior to 1983, as discussed above, commitments must also be submitted for them.

Proposed Action. EPA proposes to approve the Douglas County TSP plan as meeting the requirements of Section 172(b)(10).

Total Suspended Particulates—Sarpy County

Sarpy County is presently classified as primary nonattainment, but Nebraska has requested that it be reclassified as attainment for the primary TSP standard. In support of this request, Nebraska has submitted 24 months of monitoring data indicating primary and secondary standard attainment except for the City of Bellevue. The state has requested that EPA change the designation for Bellevue to secondary nonattainment. EPA has proposed to redesignate the remainder of the area in 46 FR 7009. Until final approval of the redesignation, the state remains obligated to submit a Part D plan.

Total Suspended Particulates—Cass County

Description of Submittal. Based on 1977 air quality data Cass County was designated as nonattainment for particulates. The state requests redesignation of Cass County to attainment with the exception of the cities of Weeping Water and Louisville. The state has developed a control strategy and approach toward demonstrating attainment based on these proposed boundary and designation changes which were proposed in a separate **Federal Register** notice (46 FR 7009). Air quality data for 1977 and 1978 is provided in support of the request. There were no 24-hour primary standard violations at either site. The design value at Louisville is the annual geometric mean of 103.4 $\mu g/m^3$, based on 1977 data. The design value at Weeping Water is the annual geometric mean of 99 $\mu g/m^3$, based on 1978 data. Data for 1978 was used for the Weeping Water design values, because in 1977 the monitor for the site was influenced by its location near a crushed gravel road.

Demonstration of Attainment. Section 172(a)(1) requires the plan to provide for attainment of the NAAQS as expeditiously as possible, but no later than the end of 1982 for primary standards.

The Cass County TSP SIP provides for attainment of the TSP primary standard before the end of 1982 in the two areas which the state believes should be the only primary nonattainment areas, Louisville and Weeping Water.

The Ash Grove Cement Plant, the major source of particulate emissions in Louisville, has submitted a letter which is a part of the SIP stating its intent to replace three older kilns with a single larger kiln. Using the rollback method, the estimated reductions from a dust suppression system on crushing and storing operations placed on the plant quarry in 1979 alone are shown to be sufficient to meet the primary particulate standard.

The state has submitted a letter dated November 26, 1980, from Ash Grove Cement committing to go forward with the construction of the new 1800 ton-per-day kiln. The engineering design phase has been in process since May 1980, and groundbreaking is scheduled for March 1981. Construction is scheduled to be completed on or before November 1, 1982. The state anticipate that the existing kilns will be retired by the end of 1982.

Controls required by Rule 5A, "Controls for Transferring, Conveying, Railcar and Truck Loading at Rock Processing Operations in Cass County" would require an 85% reduction in potential uncontrolled emissions.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(a)(1).

Reasonably Available Control Measures. Section 172(b)(2) requires implementation of all reasonably available control measures as expeditiously as practicable.

Nebraska states that all its existing major and minor sources in Cass County are equipped with RACT for particulates as required by Rule 5, 13, and 14 of the Nebraska Air Pollution Control Regulations. Rule 5A provides further controls for handling and transferring of process materials and products in Cass County. EPA has evaluated these rules and determined that all meet RACT requirements.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(2).

Reasonable Further Progress (RFP). Section 172(b)(3) requires reasonable further progress toward attainment of the NAAQS, including regular, consistent reductions sufficient to assure attainment by the required date.

The state's RFP graphs for Weeping Water and Louisville show sufficient annual reductions in TSP emission. EPA has reviewed the RFP curves and has found them to be adequate.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(3).

Emission Inventory. Section 172(b)(4) requires that plan to include a comprehensive, accurate, and current inventory of all sources of each pollutant for which an area is designated nonattainment.

The SIP presents a microinventory of the two proposed primary nonattainment areas, a 1977 point source emission inventory for both areas, and an emission inventory for the country. The state also commits to update the inventory for the nonattainment areas.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(4).

Emission Growth. Section 172(b)(5) require the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

Emission offsets and compliance with the lowest achievable emissions rate are required in Rule 4 before obtaining a construction permit for a new major source or major modification. The emission offsets are required in the rule to be submitted as SIP revisions to ensure federal enforceability. The state intends to provide for new particulate

emissions by requiring emissions offsets and does not include margins for growth in the plan. Therefore, the state is not required to identify a margin for growth for Cass County TSP.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(5).

Permit Requirements. Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified major stationary sources in accordance with Section 173 (relating to permit requirements).

Rule 4 contains the provisions required in Section 173. It provides for offsets in the nonattainment areas, requires that lowest achievable emission rate for new sources, and required a certification by owners or operations of new sources that all existing sources are in compliance, or on a compliance schedule, with all applicable emission standards.

Proposed Action. EPA proposes to approve the Cass Country TSP plan as meeting the requirements of Section 172(b)(6).

Resouces. Section 172(b)(7) requires the state to identify and commit the financial and manpower resources necessary to carry out the plan provisions.

The state indicates that no additional resources are required to carry out provisions in the SIP beyond their present program funds. EPA has determined that the state's present program funds are adequate to carry out the provisions of the plan.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(7).

Schedules. Section 172(b)(8) requires that a SIP contain emission limitations, schedules of compliance and such other measures as may be necessary to meet the national standard in the nonattainment area before the end of 1982.

The state certifies, as discussed under "Reasonably Available Control Measures", that all its existing major and minor sources are in compliance with regulations which represent RACT. An EPA evaluation confirms this.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(8).

Commitments. Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legal requirements and that the agencies responsible are committed to their implementation and enforcement.

Rule 5A which is used in the state's attainment demonstration has been adopted as a state regulation. The state has submitted legally enforceable evidence in the form of the construction permit for the new kiln which shows that the credits taken for reductions at Ash Grove are assured. The requirement that the three existing kilns at Ash Grove be retired is included as a provision of the permit.

Rules 1, 3, 4 and 6 have been submitted in draft form, but are scheduled for public hearing on March 6, 1981. EPA's proposed actions are contingent upon receiving these regulations substantially as EPA has reviewed them in draft form. No final action will be taken until rules 1, 3 and 4 are submitted as adopted by the state.

Proposed Action. EPA proposes to approve the Cass County TSP plan as meeting the requirements of Section 172(b)(10).

General Comments

Public Notice. Section 172(b)(1) requires the plan to be adopted after reasonable notice and public hearing.

Nebraska's Environmental Control Council adopted the proposed SIP revisions after public hearings on December 7, 1979 and June 27, 1980. Adequate notice and proof of publication were provided.

Proposed Action. EPA proposes to approve the Nebraska SIP revisions as meeting the requirements of Section 172(b)(1).

Public, Local Government and State Legislative Involvement. Section 172(b)(9) requires evidence of involvement and consultation of the public, local government and state legislature in the planning process; an identification and analysis of the air quality, health, welfare, economic, energy and social effects of the revision; and a summary of public comments on the analysis.

The Nebraska SIP revisions contain adequate evidence to satisfy Section 172(b)(9).

Proposed Action. EPA proposes to approve the Nebraska SIP revision as meeting the requirements of Section 172(b)(9).

Delayed Attainment Dates and 1982 Submission. Section 172(b)(11) and Section 172(c) contain requirements for plans with attainment dates after 1982. None of the SIP revisions discussed today have attainment dates after 1982, therefore, these provisions are not applicable.

Secondary Standards

On September 25, 1980 the State of Nebraska submitted a number of redesignation requests as part of the SIP revision required by the 1977 Clean Air Act Amendments. Certain requests also seek eighteen month extensions until July 1, 1980 to submit a SIP which addresses attainment of the secondary standard for TSP. Such extensions can be granted under 40 CFR 51.31(c) if the state shows that emissions reductions beyond those achievable through the application of RACT are required to attain the secondary standard.

EPA has granted extensions to July 1, 1980 in the past even though that date had passed, because the action allowed the provisions of the Emission Offset Interpretative Ruling (44 FR 3274) to go into effect in the secondary nonattainment area until January 1, 1981, the deadline for EPA's approval or disapproval of secondary plans which were due on July 1, 1980. Construction of new major sources or major modifications was then permitted under the offset policy until the January 1, 1981, deadline for approval/disapproval.

Because it is now EPA policy to apply the Emission Offset Interpretative Ruling in secondary standard nonattainment areas until a SIP is approved for those areas, granting an extension in those applicable areas until the elapsed July 1, 1980 date is no longer necessary.

The state requests eighteen month extensions for the following areas:

Proposed Secondary TSP Nonattainment Areas

1. Omaha (except for 11th and Nicholas, and 24th and "O" Streets)
2. Bellevue
3. Weeping Water
4. Louisville

Adequate demonstrations for secondary extensions are submitted for Bellevue, Weeping Water and Louisville. The demonstration for Omaha assumed that Rule 6 was representative of RACT; however, EPA has determined otherwise. Whether the application of a revised Rule 6 would result in attainment of the secondary standard before the end of 1982 without controls on nontraditional sources is not known.

Proposed Action. EPA proposes to deny the request for eighteen month extensions until July 1, 1980 to submit plans to attain the secondary standard in the areas listed above. The deadline has already passed and granting of the extension would serve no useful purpose.

Proposed Regulatory Changes for New Source Review

Rule 1—Additional definitions or changes to definitions associated with other regulations are submitted.

Definitions for "potential to emit," "secondary emissions", and "significant" (in relation to increases in emissions) are now included in Rule 1 to be consistent with definitions proposed in the August 7, 1980 Federal Register. The existing "major source" and "minor source" definitions are revised and defined by their potential to emit rather than their potential emissions. The definition of "potential emissions" has been deleted.

Rule 3—This rule requires sources which exceed the limits in the regulation to report their operations, and has been revised by the addition of Part 5 which requires that an operating permit be issued to the sources that are in compliance with the regulations.

The regulation is revised to specify processing machines, equipment, devices or other article or combinations there of subject to reporting and operating requirements in terms of their "potential to emit" rather than their potential emissions. The regulation is also made specifically applicable to CO and lead by adding emission limitations of 100 tons/year or more for CO and 5 tons/year or more for lead.

Rule 4—The industrial categories covered by the rule were expanded and sections were added in an effort to bring it into compliance with Sections 173 and 172(b)(6) of the Clean Air Act Amendments of 1977. Emission offsets and compliance with the lowest achievable emission rate are required as conditions for obtaining a construction permit for a new major source or major modification.

Proposed Rule 4(5)(b) has been revised to delete reference to permit requirements on certain sources in nonattainment areas which "adversely affect" the non-attainment areas. Rule 4(5)(b) is also revised to specify that modifications subject to the section must be "significant" (as defined now in Rule 1), and to eliminate the phrase "with potential increased emissions of 100 tons/year or more" in relation to modifications.

Rule 4 is revised to define the applicability of the permit requirement for "construction, reconstruction or modification of any processing machine, equipment or device or other article or combination thereof" in terms of "potential to emit" rather than potential emissions.

Rule 4(5)(b) has also been revised to delete the reference that requirements of the section will not apply if it can be demonstrated that the proposed source or modification will not have an adverse impact on the nonattainment area.

Proposed Action. EPA proposes to approve the changes to Rules 1, 3 and 4 as meeting the requirements specified in the August 7, 1980, Federal Register for new source review in nonattainment areas.

Summary and Conclusions

EPA proposes actions in this notice on 1) Part D requirements of the Nebraska SIPs for Omaha CO and Douglas, Sarpy and Cass County TSP; 2) regulatory changes affecting new source review in nonattainment areas (as required in the August 7, 1980, Federal Register); and 3) 18-month extensions. No final action will be taken as outlined below until Rules 1, 3 and 4 are adopted and submitted to EPA as described in this notice to satisfy Section 172(b)(6) and Section 173 requirements.

Part D Actions. EPA proposes full approval for all requirements of Section 172 of the Clean Air Act Amendments of 1977 with the following exceptions:

(a) Conditional approval is proposed for Section 172(a)(1) and Section 172(b)(3) relating to the Douglas County CO plan with a deadline of May 15, 1981, set to have the CO air quality modeling report for the Omaha area adopted and submitted substantially as described in this notice.

(b) Conditional approval is proposed for Section 172(b)(2) relating to the Douglas County TPS plan with a deadline of August 15, 1981 set to have Rule 6 adopted and submitted to EPA as described in this notice.

(c) Conditional approval is proposed for Section 172(b)(7) relating to the Douglas County TSP plan with a deadline of August 15, 1981 set for submittal of evidence of full funding for the TSP control measures for which the state takes credit in its attainment and RFP demonstrations.

New Source Review in Nonattainment Areas. EPA proposes to approve Rules 1, 3 and 4 once they are adopted and submitted substantially as described in this notice.

18-Month Extensions. EPA proposes to deny the requests for 18-month extensions for submittal of plans to demonstrate attainment of the secondary standard.

The measures proposed today would be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without control or under less stringent controls while it is moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations would result in appropriate enforcement action, including assessment of non-compliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations because of a court order or for any other reason, the pre-existing regulations would be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for sources to comply with the new regulations. In these situations, the State may exempt a source from compliance with the existing regulations. Any exemption granted would be reviewed and acted on by EPA either as part of these proposed regulations or as future SIP revisions.

The public is invited to submit comments on whether the proposed amendments to the Nebraska air pollution regulations should be approved as a revision of the Nebraska State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant," and therefore subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act Amendments of 1977.

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

Dated: January 9, 1981.

Kathleen Camin,

Regional Administrator.

[FR Doc. 81-4195 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-10-FRL 1747-6]

State of Washington's Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This Notice is to invite public comment on EPA's proposal to approve a revision to the State of Washington State Implementation Plan (SIP). This revision has been submitted to comply with EPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. EPA has determined that the plan meets requirements for the monitoring, network design, instrument probe siting criteria, monitoring methods to be used, and establishing a quality assurance program.

DATE: Comments will be accepted up to March 9, 1981.

ADDRESSES: The related material in support of this revision may be examined during normal business hours at the following locations:

Central Docket Section (10A-80-18), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

Department of Ecology, 4224—Sixth Ave. S.E., Rowesix, Building #4, Lacey, WA 98503

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: William B. Schmidt, Air Programs Branch, M/S 345, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone: (206) 442-1106, FTS: 399-1106.

SUPPLEMENTARY INFORMATION: Section 319 of the Clean Air Act as amended, requires the Environmental Protection Agency (EPA) to establish monitoring criteria to be followed uniformly across the nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), EPA, on May 10, 1979 (44 FR 27558) promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision to the plan which will:

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

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Washington's Air Quality Monitoring Network

On March 5, 1980, the State of Washington's Department of Ecology (DOE) submitted to EPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the criteria pollutants: Total suspended particulates (TSP), sulfur dioxide (SO_2) and carbon monoxide (CO) and ozone (O_3).

The Washington monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Washington Air Monitoring Network with adjustments and additions made where necessary.

Besides establishing the SLAMS and NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used to fill special monitoring study needs. If data are to be used for support of control strategies, determination of attainment/non-attainment, or air dispersion modeling validation, the monitors will be reference or equivalent, sited according to Appendix E to 40 CFR Part 58 and follow the quality assurance procedures of Appendix A to 40 CFR Part 58.

The SIP states that specific SLAM sites will be designated as Episode Monitoring Sites (EMS). These stations will be visited daily during the work week to ascertain proper operation and to detect elevated values. In the event an episode is declared, the pollutant(s) of concern will be followed continuously until episode termination.

All SLAMS in the Washington monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating SLAMS and processing air quality data. The air monitoring network will be reviewed annually to eliminate any unnecessary SLAMS, add necessary SLAMS and to correct inadequacies. All proposed changes to the network will be reported

to and discussed with the EPA Regional Office before changes are made.

Included as part of the SIP revision is a description of the proposed NAMS network. This description covers the existing proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

EPA has reviewed the submittal and has determined that it meets the requirements of Sections 110 and 319 of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 58. EPA is therefore proposing approval of the revised Washington Air Quality Monitoring Plan.

Interested persons are invited to comment on the Washington SIP revision and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before (30 days after publication) will be considered in EPA's final rulemaking. All comments received will be available for inspection at the EPA offices listed above.

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) The public has had adequate notice of the guidelines for preparation of Part 58 plans and (2) the impact of this rulemaking is limited only to the State of Washington. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of the Part 58 revision for the State of Washington to Title 40 of the Code of Federal Regulations.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

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

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: January 28, 1981.

Donald P. Dubois,

Regional Administrator.

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

Subpart WW—Washington

In § 52.2470 paragraph (c)(24) is added as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(24) On March 5, 1980 the State of Washington Department of Ecology submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C, § 58.20.

[FR Doc. 81-4429 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1747-8]

Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions for the State of Wisconsin

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve the portion of Wisconsin's State Implementation Plan which has been revised to comply with USEPA regulations contained in 40 CFR Part 58. The revision provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. USEPA has determined that the plan meets the requirements for quality assurance of the monitoring stations, network design and probe siting criteria, and monitoring methods.

DATE: Comments must be submitted by no later than March 9, 1981.

ADDRESS COMMENTS TO: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Stephen Goranson, Chief, Air Monitoring Staff, U.S. Environmental Protection Agency, Region V, 536 South Clark Street, Chicago, Illinois 60605, (312) 886-6226.

Copies of the requests for the State Implementation Plan (SIP) revision and supporting documents are available at the address cited above and at:

Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster Street, Madison, Wisconsin 53707.

SUPPLEMENTARY INFORMATION:

Requirements for Air Quality Monitoring Network

Section 319 of the Clean Air Act, as amended, requires the United States Environmental Protection Agency (USEPA) to establish monitoring criteria to be followed uniformly across the Nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG), USEPA, on May 10, 1979 (44 FR 27558), promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision to the SIP which will:

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

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Wisconsin's Air Quality Monitoring Network

On April 18, 1980, the State of Wisconsin submitted to USEPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the following criteria pollutants: total suspended particulate, sulfur dioxide, nitrogen dioxide, carbon monoxide, and ozone.

The Wisconsin monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Wisconsin Air Monitoring Network with adjustments and additions made where necessary.

The SIP states that at least one SLAM site will be designated as an episode station for each pollutant in areas required by 40 CFR 51.16.

All SLAMS in the Wisconsin monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of 40 CFR Part 58, Appendix A will be followed when operating SLAMS stations and processing air quality data. The air monitoring system will be reviewed annually and any necessary modifications will be reported to the USEPA by July 1 of each year. These annual reviews are necessary to eliminate any unnecessary stations and to correct inadequacies in the network.

The SIP revision include a description of the proposed NAMS network. This description covers the proposed monitoring locations, sampling, and analysis methods, monitoring objectives, and implementation dates.

USEPA has reviewed the submittal and has determined that it meets the requirements of sections 110 and 319 of the Clean Air Act, as amended, and USEPA regulations in 40 CFR Part 58. USEPA is therefore proposing approval of the revised Wisconsin Air Quality Monitoring Plan.

Interested persons are invited to comment on the revised Wisconsin SIP and on USEPA's proposed actions. Comments should submitted to the address listed at the beginning of this Notice. Public comments received on or before March 9, 1981, will be considered in USEPA's final rulemaking. All comments received will be available for inspection at USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

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

This Notice of Proposed Rulemaking is issued under the authority of section's 110 and 319 of the Clean Air Act, as amended.

Dated: January 28, 1981.

John McGuire,

Regional Administrator.

[FR Doc. 81-4430 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 410

[WH-FRL 1738-3]

Textile Mills Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

Correction

In FR Doc. 81-2920 appearing at page 8590 in the issue of Tuesday, January 27, 1981, make the following changes.

(1) On page 8591, third column, first full paragraph, beginning in the seventh line, the words "EPA has changed the effluent limitation or standard" should be removed.

(2) On page 8595, third column, the table under the heading, "Knit Fabric Finishing Subcategory—Hosiery Products", the figure, "0.994" should read "0.004".

(3) On page 8596, third column, the table under the heading, "Knit Fabric Finishing Subcategory—Complex Processing", the figure "37.5" should read "37.0", and the figure "4.49" should read "4.4".

BILLING CODE 1505-01-M

40 CFR Part 610

[Docket No. A-81-1; 1747-1]

Energy Equivalency Between Diesel Fuel and Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for comments.

SUMMARY: The purpose of this notice is to announce the availability of a report prepared by Sobotka & Company, Incorporated, under contract to EPA dealing with the energy equivalency between diesel fuel and gasoline, and to invite public comment on the analysis and recommendation presented therein. Specifically, EPA is interested in receiving comments as to whether new information referenced in the report or otherwise known to commenters indicates a need for EPA to revise the present diesel fuel/gasoline equivalency factor specified in the Code of Federal Regulations. Comments received will be considered by EPA in making a decision whether to propose a revised diesel fuel/gasoline equivalency factor.

DATES: Comments must be submitted on or before April 7, 1981.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to the Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-81-1, 401 M Street SW., Washington, D.C. 20460. The docket is located at the above address in the West Tower Lobby, Gallery I. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying. A copy of the report and supporting documentation has been placed in Public Docket A-81-1. Copies of the report may be obtained by request to EPA's Office of Mobile Source Air Pollution Control at the address given earlier.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kittredge, Office of Mobile Source Air Pollution Control (ANR-455), at the above address, telephone number (202) 426-2514.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1977, EPA promulgated fuel economy testing procedures for 1978 and later model year automobiles (42 FR 45641). One provision of these regulations responds to a requirement in section 503(d)(2) of the Motor Vehicle information and Cost Savings Act, that "The EPA Administrator shall, by rule, determine that quantity of any other fuel which is the equivalent of gasoline." In response

to this provision. EPA included a statement in the regulations that "the fuel economy value of diesel powered model types will be multiplied by the factor 1.0 to convert gallons of diesel fuel to equivalent gallons of gasoline" [Section 600.510-78(b)(2)(iii)]. This seemingly useless statement is intended merely to show that EPA did consider the question of energy equivalency between the two types of fuel and concluded that the differences are too small to be meaningful. The technical analysis performed in support of the 1977 regulation came out with a calculated equivalency factor of 0.96 for number two grade diesel fuel compared to gasoline. However, the range of opinions and the uncertainties in the assumptions used as a basis for this calculation were sufficiently great that the 0.96 value was rounded off to 1.0 for regulatory purposes.

Since promulgation of the 1977 regulation, the trend towards increasing numbers of diesel powered automobiles has continued and there have been a number of independent estimates made of the energy tradeoffs involved in refining and consuming increased amounts of automotive diesel fuel.

Ford Motor Company has written to EPA on this topic, challenging the original basis for establishing the 1.0 equivalency factor and recommending that a new and lower equivalency factor be substituted.[1] Accordingly, EPA has contracted with Sobotka & Company, Inc. to conduct a study using the most recent technical information available and to calculate a new diesel fuel/gasoline energy equivalency factor. The study has been completed and a report submitted [2], which recommends that the present equivalency factor not be changed.

Dated: January 30, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-4358 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-26-M

[1] Letter T. J. Galbreath to C. L. Gray, November 28, 1979.

[2] "Review of Diesel Equivalency Factors," Sobotka & Company, Inc., December 5, 1980.

40 CFR Part 230

[WH-FRL 1747-7]

Testing Requirements for the Specification of Disposal Sites for Dredged or Fill Material

AGENCY: Environmental Protection Agency.

ACTION: Extension of Public Comment Period.

SUMMARY: On December 24, 1980, the Environmental Protection Agency proposed rules that would amend the testing and evaluation requirements of 40 CFR Part 230. A 45-day comment period was provided that began on December 24, 1980, and was to have ended on February 6, 1981. Several reviewers have written to the Agency requesting additional time to complete their comments because of the technical nature of the proposed testing requirements and the complexity of the issues involved in the implementation of those requirements. EPA has determined that additional time should be allowed. The date for the close of the public comment period on the proposed revisions to 40 CFR Part 230, Testing Requirements for the Specification of Disposal Sites for Dredged or Fill Material [45 FR 85359 (December 24, 1980)], is hereby extended by 31 days from February 6, 1981, to March 9, 1981.

DATE: Comments are now due on or before March 9, 1981.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Krivak, Director, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone (202) 755-0100.

Dated: February 2, 1981.

James W. Smith,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81-4465 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-29-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Administration and Management

41 CFR Part 29-15

Implementation of Federal Management Circular 74-4; Allowability of Costs Incurred by State and Local Governments in Administering Federal Financial Assistance Programs

AGENCY: Office of the Assistant Secretary for Administration and Management, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for filing comments regarding a proposed rule intended to revise Part 29 of Title 41 of the Code of Federal Regulations (41 CFR Part 29) which concerns Procurement Standards for Department of Labor grants to State Employment Security Agencies. This action is taken in response to requests by various interested parties who need additional time to submit their comments.

DATES: Comments must be received on or before March 2, 1981.

ADDRESS: Comments should be sent to Mr. Theodore Goldberg, Director, Office of Grants and Procurement Policy, Office of the Assistant Secretary for Administration and Management., U.S. Department of Labor, Room S-1323, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Theodore Goldberg, Director, Office of Grants and Procurement Policy, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, Room S-1323, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: 202-523-9174.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 19, 1980 (45 FR 83998) the Department of Labor published a proposed rule intended to revise 41 CFR Part 29 which concerns Procurement Standards for Department of Labor grants to State Employment Security Agencies. Interested persons were requested to submit comments on or before January 19, 1981.

The agency has received requests for an extension from various interested parties who need additional time to submit their comments. The agency believes that the extension of the comment period is appropriate, and that the additional time should be extended to all interested persons. Therefore, the comment period for the proposed rule, revising 41 CFR Part 29 (Procurement Standards for DOL grants to State Employment Security Agencies), is extended to March 2, 1981.

Signed at Washington, D.C., this 29th day of January, 1981.

Alfred M. Zuck,

Acting Secretary of Labor.

[FR Doc. 81-4428 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-23-M

OFFICE OF MANAGEMENT AND BUDGET

Federal Procurement Policy Office

48 CFR Part 7

Contractor Versus Government Performance

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR) regarding the decision to perform an industrial or commercial activity in-house with Government personnel or to acquire it by contract.[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before April 7, 1981.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726, Jackson Place, N.W., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 45, No. 125, June 26, 1980, p. 43236 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist (202) 395-3300.

[1] A copy of the draft Federal Acquisition Regulation is filed with the original document.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR Project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following part of the draft Federal Acquisition Regulation is available upon request for public and Government agency review and comment.

PART 7—ACQUISITION PLANNING

Subpart 7.3—Contractor Versus Government Performance

This subpart prescribes policies and procedures for use in acquisitions subject to OMB Circular A-76, Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government, and the Cost Comparison Handbook, Supplement No 1 to OMB Circular A-76. It details the contracting procedures to be followed in making the necessary cost comparisons between performance of an activity using Government personnel and performance under contract. The conventional contracting process is prescribed, with additional procedures appropriate to the fact that solicitations issued for obtaining firm offers for proposed contract performance may or may not lead to award of a contract, depending upon the final cost-comparison results.

To ensure that offerors understand this qualified nature of the solicitation, and other features peculiar to the process, the FAR prescribes a provision, Notice of Cost Comparison, for inclusion in formally advertised solicitations and another such Notice for solicitations issued under negotiation procedures. A clause, Right of First Refusal for Employment, is also required to be included in solicitations and resulting contracts that involve the conversion of Government services to contract services.

Other provisions deal with the importance of maintaining the confidentiality of cost estimates for Government performance until bids are opened or the most advantageous offer has been selected and the opportunity for affected parties to examine the results and to present any objections to the contracting officer for resolution under an independent agency appeals procedure (as required by Section 11 of the Circular).

Reviewers of the proposed FAR coverage are requested to note and comment on, as appropriate, the restricted application to the contracting process given by the FAR to the Circular's term "private commercial source." See FAR 7. 304(c)(3) and the related footnote at page 4 of 11 of the spreadsheets.

There are no proposed policy changes in the FAR coverage.

Dated: January 30, 1981.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 81-4444 Filed 2-5-81; 8:45 am]

BILLING CODE 3110-01-M

Notices

Federal Register
Vol. 46, No. 25
Friday, February 6, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children; Program Reimbursement Rates for 1981

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of adjustments in the Program reimbursement rates to reflect changes in the Consumer Price Index. These adjustments are required by the statute and regulations governing the Program.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6509.

EFFECTIVE DATE: January 1, 1981.

SUPPLEMENTARY INFORMATION: Pursuant to Section 13 of the National School Lunch Act (42 U.S.C. 1761) and regulations governing the Summer Food Service Program for Children (7 CFR Part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the Summer Food Service Program for Children during the 1981 Program. Adjustments are based on changes in the food away from home series of the Consumer Price Index for All Urban Consumers for the period November 1979 through November 1980. The new reimbursement rates are as follows:

Maximum Per Meal Reimbursement Rates for Operating Costs

Breakfast	69.25¢
Lunch or supper	124.25¢
Supplement	32.50¢

Maximum Per Meal Reimbursement Rates for Administrative Costs

a. For meals served at rural or self-preparation sites:

Breakfast	6.50¢
Lunch or supper	11.75¢
Supplement	3.25¢

b. For meals served at other types of sites:

Breakfast	5.00¢
Lunch or supper	9.75¢
Supplement	2.50¢

The total amount of payments to State agencies for distribution to Program sponsors shall be based upon these Program reimbursement rates and the number of meals of each type served. The above reimbursement rates, before being rounded-off to the nearest quarter-cent, represent a 9.55 percent increase in the payment rates prescribed for 1980. This represents the percentage of increase during the 1980 (from 251.30 in November, 1979, to 275.30 in November, 1980) in the food away from home series of the Consumer Price Index, for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

(Catalog of Federal Domestic Assistance Program No. 10.559)

(Sec. 2, Pub. L. 95–166, 91 Stat. 1325, 42 U.S.C. 1761; Sec. 5 Pub. L. 95–627, 92 Stat. 3620, 42 U.S.C. 1761)

Gene P. Dickey,

Acting Administrator, Food and Nutrition Service.

January 30, 1981.

[FR Doc. 81-4136 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Devers-Serrano-Villa Park Transmission Line Project, Cleveland National Forest and San Bernardino National Forest, Orange and Riverside Counties, Calif.; Intent To Prepare an Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, and Title 14, Section 15063 of the State of California Administrative Code, the Forest Service, U.S. Department of Agriculture and the California Public Utilities Commission, acting as "joint-lead agencies" will prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for a power transmission line system between Devers and Valley Substations (500 kV), Serrano and Valley Substations (220 kV). The Bureau of Land Management, Department of Interior is a "cooperating agency" in the preparation of this EIS/EIR.

Southern California Edison Company (SCE) proposes to construct and operate a 500 kV transmission line and a 200 kV transmission line between Devers Substation in Riverside County and the Serrano Substation and Villa Park Substation near Anaheim on existing right-of-way. Project alternates cross the San Bernardino National Forest and Cleveland National Forest lands managed by the United States Department of Agriculture, Forest Service (USFS) and would also cross public lands managed by the U.S. Department of Interior, Bureau of Land Management (BLM).

Applications have been filed by the Southern California Edison Company for a right-of-way across lands administered by the USFS and BLM. Application has also been filed with the CPUC, pursuant to Public Utilities Code Section 1001 and General Order 131–B for a certificate of public convenience and necessity to cover the entire transmission line.

All individuals, organizations, Federal, State and local agencies who may be interested in or affected by the decision are invited to participate in the scoping process, which includes: (a) identification of those issues to be addressed; (b) identification of issues to be analyzed in depth; and, (c) elimination of insignificant issues, (d) discussion of routes to be studied, and (e) related actions. The scoping meetings will be held by this joint-lead agencies as follows:

February 17, 1981, 7:00 p.m.—Banning City Hall Conference Room, 161 W. Ramsey St., Banning, California

February 18, 1981, 7:00 p.m.—Perris City Hall Council Chambers, 101 N. "D" St., Perris, California

February 19, 1981, 6:30–9:30 p.m.—Corona City Hall Council Chambers, 815 W. 6th St., Corona, California

Mr. Zane G. Smith, Jr., Regional Forester, Pacific Southwest Region of the Forest Service, is the responsible official. The agency project coordinator will be: Laura B. Ferguson, Cleveland National Forest, 880 Front Street, Room 6S5, San Diego, California 92188, (714) 293–6075.

The CPUC Project Coordinator will be: Bill Yuen Lee, 350 McAllister Street, San Francisco, California 94102, (415) 557–1748.

It is anticipated that the environmental analysis will require about seven (7) months. The Draft EIS/EIR should be available for public review by June, 1981 and the Final EIS/EIR is scheduled for completion in September, 1981.

Comments on the Notice of Intent or on the project should be sent to Mr. Ralph C. Cisco, Forest Supervisor, Cleveland National Forest, 880 Front Street, Room 6S5, San Diego, CA 92188.

Robert W. Cermak,

Acting Regional Forester.

[FR Doc. 81-4385 Filed 2-5-81; 8:45 am]

BILLING CODE 1310-11-M

Rural Electrification Administration

Tri-State Generation and Transmission Association, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact (FONSI) which concludes that there is no need for REA to prepare an environmental impact statement in connection with REA providing financial assistance to Tri-State Generation and Transmission Association, Inc., (Tri-State) of Denver, Colorado, for the construction of 35.2 km (22 miles) of 115 kV transmission line and associated substation facilities.

The 115 kV transmission line will be built between the Crete Substation and the Enders Substation in Chase County, Nebraska. Both substations will require modifications to accommodate the additional 115 kV apparatus. Tri-State has prepared a Borrower's Environmnental Report (BER) concerning the proposed project. An Environmental Assessment (EA) was prepared by REA.

Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands and flood plains, and other potential impacts of the project are adequately considered in Tri-State's BER and REA's EA.

REA's independent evaluation of the proposed project leads it to conclude that its proposed financial assistance for this project does not represent a major Federal action that will significantly affect the quality of the human environment. Based on this independent evaluation, the REA EA, and a review of Tri-State's BER, a FONSI was reached in accordance with Section IV.B and IV.D.1 of REA Bulletin 20–21:320–21, Part I.

Various alternatives to the proposed transmission line and substation modification were reviewed by Tri-State and REA. The alternatives included no action, energy conservation, alternative routes, a generating facility, and underground line. It was concluded that the proposed project was the most viable alternative for Tri-State to improve its system reliability and system support for the Grant-Spring Creek-Lamar-Crete area.

Copies of REA's FONSI, REA's EA, and Tri-State's BER may be reviewed in the office of Mr. Frank Bennett, Director, Power Supply Division, Room 5829, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 447–6183, and at the office of the cooperative, Tri-State Generation and Transmission Association, Inc., 12076 Grant Street, P.O. Box 33695, Denver, Colorado 80233, telephone: (303) 542–6111. A copy of REA's FONSI and EA is available upon request to the Director, Power Supply Division at the address given above.

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

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

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-4448 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-15-M

Tri-State Generation and Transmission Association, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact (FONSI) which concludes that there is no need for REA to prepare an environmental impact statement in connection with REA providing financial assistance to Tri-State Generation and Transmission Association, Inc., (Tri-State) of Denver, Colorado, for the construction of 88 km (55 miles) of 115 kV transmission line and associated substation facilities.

The 115 kV transmission line will be built between the Lovell Substation located in Big Horn County, Wyoming, and Big George I Substation in Park County, Wyoming. Both substations will require modifications to accommodate the additional 115 kV apparatus. Tri-State has prepared a Borrower's Environmental Report (BER) concerning the proposed project. An Environmental Assessment (EA) was prepared by REA.

Threatened and endangered species, important farmlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the project are adequately considered in Tri-State's BER and REA's EA.

REA's independent evaluation of the proposed project leads it to conclude that its proposed financial assistance for this project does not represent a major Federal action that will significantly affect the quality of the human environment.

Based on this independent evaluation, the REA EA, and a review of Tri-State's BER, a FONSI was reached in accordance with Section IV.B and IV.D.1 of REA Bulletin 20–21:320–21, Part I.

Various alternatives to the proposed transmission line and substation modifications were reviewed by Tri-State and REA. The alternatives included no action, energy conservation, alternative routes, a generating facility, and underground line. It was concluded that the proposed project was the most viable alternative for Tri-State to improve its system reliability and system support for the Big Horn Basin area.

Copies of REA's FONSI, REA's EA, and Tri-State's BER may be reviewed in the office of Mr. Frank W. Bennett, Director, Power Supply Division, Room 5829, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 447–6183, and at the office of the cooperative, Tri-State Generation and Transmission Association, Inc., 12076 Grant Street, P.O. Box 33695, Denver, Colorado 80233, telephone: (303) 452–6111. A copy of REA's FONSI and EA is available upon request to the Director, Power Supply Division at the address given above.

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

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

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-4447 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-15-M

Dairyland Power Coop.; Intent To Prepare an Environmental Impact Statement and Announcement of Public Scoping Meetings

Notice is hereby given that the Rural Electrification Administration (REA), if lead agency, intends to prepare an Environmental Impact Statement (EIS) and conduct public scoping meetings in

order to fulfill its requirements under the National Environmental Policy Act of 1969 in connection with a possible loan guarantee commitment to Dairyland Power Cooperative (Dairyland), P.O. Box 817, LaCrosse, Wisconsin 54601, phone: (608) 788–4000, for the construction of certain generation and related transmission facilities. Dairyland tenatively proposes that the generating facilities be located in the state of Wisconsin and is investigating possible sites in the counties of Buffalo, Pepin, and Chippewa.

The sites are being investigated for a possible 400–600 MW coal-fired generating station. Associated with the proposed generation station, will be coal transportation and handling facilities, bulk transmission, pollution control equipment, cooling towers, waste disposal areas, retention ponds, water supply facilities, and other ancillary facilities.

Alternatives to be considered by REA are described in REA Bulletin 20–21: 320–21 and may include among other options: (1) no project, (2) conservation and load management, (3) purchase power from other utilities, (4) shared generating units with other utilities, (5) alternative sites for the proposed generating plant and transmission lines, (6) alternative fuels, and (7) alternative methods of generation.

Public scoping meetings will be held on March 11, 1981, at 7:30 p.m., CST in the Buffalo County Court House, Alma, Wisconsin, and on March 12, 1981, at 7:00 p.m., CST in the Eau Claire Civic Center, 216 South Farwell, Eau Claire, Wisconsin. These public scoping meetings will be co-chaired by representatives of the REA, the Wisconsin Department of Natural Resources, and the Wisconsin Public Service Commission.

These public scoping meetings will be held in order to solicit public input and comments including but not limited to the nature of the proposed project, its possible location, alternatives, and any significant issues and environmental concerns that should be addressed in the REA EIS. A record will be made of the meeting and comments will be addressed in the EIS.

All agencies, groups, and individuals are invited to attend and participate in this series of public scoping meetings. All interested parties are invited to submit written comments to REA prior to, at, or within 30 days after the scoping meetings, if they desire to have their comments as part of the formal record for these scoping meetings. Comments may be sent to Frank W. Bennett, Director, Power Supply Division, Room 5168, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, phone: (202) 447–6183. Requests for additional information concerning the scoping meetings may also be directed to Dairyland at the address given above.

REA financing assistance to Dairyland will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with environmental impact statement procedures required by the National Environmental Policy Act of 1969.

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

Dated at Washington, D.C., this 4th day of February 1981.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-4402 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Attoyac Bayou Watershed, Texas; Availability of Record of Decision

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of availability of a record of decision.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76501, telephone number (817) 774–1255.

NOTICE: George C. Marks, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Texas, is hereby providing notification that a record of decision is available for the Attoyac Bayou Watershed. Single copies of this record of decision may be obtained from George C. Marks at the above address.

Dated: January 28, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4433 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-16-M

West Fork of Big Creek Watershed, Missouri, Iowa; Intent To Prepare an Environmental Impact Statement

AGECNY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65201, telephone 314–442–2271.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the West Fork of Big Creek Watershed, Daviess and Harrison Counties, Missouri, and Ringgold and Decatur Counties, Iowa.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection and flood prevention.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Kenneth G. McManus, State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4434 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-16-M

Mississippi County Spillway Watershed, Missouri; Intent To Prepare An Environmental Impact Statement

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Intent to Prepare an Environment Impact Statement.

FOR FURTHER INFORMATION CONTACT:
Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65201, telephone 314–442–2271.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Mississippi County Spillway Watershed, Mississippi County, Missouri.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection, flood prevention and drainage.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Kenneth G. McManus, State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4435 Filed 2-5-81 8:45 am]

BILLING CODE 3410-16-M

Upper Elk Creek Watershed, Oklahoma; Environmental Evaluation; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500) and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for channel work in the Upper Elk Creek Watershed, Beckham, Kiowa, and Washita Counties, Oklahoma.

The environmental evaluation of the federally-assisted action indicates that the action will not cause significant impacts to the human environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The proposed action involves minor realignment and increase in capacity for three channel segments totaling 8.2 miles which were planned in combination with floodwater retarding structures to handle release flows from the floodwater retarding structures and reduce flooding on about 900 acres of flood plain. The streams involved are classified as ephemeral and no wetlands or significant aquatic ecosystems will be affected.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The environmental assessment is on file and may be reviewed by interested parties by contacting Mr. Roland R. Willis. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: January 23, 1981.

Joseph W. Hass,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4436 Filed 2-5-81 8:45 am]

BILLING CODE 3410-16-M

Franklinville School Critical Area Treatment RC&D Measure, North Carolina; Environmental Assessment; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of the Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Franklinville School Critical Area Treatment RC&D Measure, Randolph County, North Carolina.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion on approximately 0.6 acre of critically eroding land. The planned works of improvement include four pipe inlets, 0.4 acre of grassed waterways, 920 square feet of gravel mulch, 100 feet of diversions and the seeding of the eroding areas with adopted perennial vegetation. Areas of existing vegetation destroyed during installation will be re-established.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contracting Mr. Jesse L. Hicks. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are

available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 27, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4437 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-16-M

Lovejoy Pond Watershed, Maine; Environmental Assessment; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth E. Growe, Acting State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone (207) 866-2132.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lovejoy Pond Watershed, Kennebec County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not have a significant effect on the human environment. As a result of these findings, Mr. Kenneth E. Growe, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for water quality improvement. The planned works of improvement include the installation of 22 agricultural waste management systems and in-lake treatment.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation and the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. Kenneth E. Growe. The FNSI has been sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4438 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-16-M

Middle Branch of Cass River Watershed, Michigan Hyslop Drain; Environmental Assessment; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone (517) 337-6702.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Middle Branch of Cass River Watershed, Hyslop Drain, Sanilac County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for the installation of works of improvement for flood prevention and improved drainage. Planned works of improvement include 5.9 miles of channel improvement on an intermittent stream. Work will primarily be deepening the existing channel to between 5 and 7 feet average depth with 2:1 side slopes. In some instances, widening will take place. A minimum bottom width of 4 feet will be used on all but the lower 1.5 miles, which will have an 8 and 5 foot bottom. All planned construction will be done during a "Normal Dry" period of time.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty. The FNSI has been sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81-4439 Filed 2-5-81; 8:45 am]

BILLING CODE 3410-16-M

Spring-Bull Creek Watershed, South Dakota Floodwater Retarding Structure Site SB-2C; Environmental Assessment; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Swenson, State Conservationist, Soil Conservation Service, 200 Fourth Street, SW., Huron, South Dakota 57350, telephone (605) 352-8651, ext. 333.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Floodwater Retarding Structure Site SB-2C, Spring-Bull Creek Watershed, Charles Mix County, South Dakota.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on

the environment. As a result of these findings, Mr. Robert D. Swenson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The planned works of improvement include constructing one floodwater retarding structure (SB–2C) in Charles Mix County, South Dakota. This will be operated as a dry dam providing floodwater retention and sediment storage. The size of the sediment pool will be about 20 surface acres and the floodwater retarding pool will cover about 78 surface acres.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert D. Swenson. A combined environmental assessment and FNSI has been prepared and sent to various Federal, State and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81–4440 Filed 2–5–81; 8:45 am]

BILLING CODE 3410–16–M

Upper Salt Creek Watershed, Kansas; Supplemental Work Plan; Environmental Evaluation; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Tippie, State Conservationist, Soil Conservation Service, 760 South Broadway, P.O. Box 600, Salina, Kansas 67401, telephone (913) 825–9535.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Supplemental Work Plan, Upper Salt Creek Watershed, Lincoln and Mitchell Counties, Kansas.

The environmental evaluation of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John W., Tippie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this measure.

The Upper Salt Creek Watershed project concerns a plan for watershed protection and flood prevention. The planned project is to be implemented under the authority of the Watershed Protection and Flood Prevention Act (PL–566, 83rd Congress, 68th Stat. 666), as amended. The plan supplement includes deleting one, adding another, and moving a third floodwater retarding structure.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation is on file and may be reviewed by contacting Mr. John W. Tippie. The FNSI and environmental assessment report have been reviewed by various Federal, State, and local agencies, and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until March 9, 1981.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 28, 1981.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 81–4441 Filed 2–5–81; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[81–5]

Applications and/or Amendments Thereto Filed During the Week Ending January 30, 1981

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan. 27, 1981	39197	KLM Royal Dutch Airlines, 437 Madison Avenue, New York, New York 10022. Application of KLM Royal Dutch Airlines, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that its basic foreign air carrier permit, last issued by the Board pursuant to its Order 80–12–32 in docket 34783, adopted by the Board on October 29, 1980, and approved by the Board on October 29, 1980, and approved by the President of the United States of America on December 8, 1980 be amended in the following respects: Delete the route segments A(1) and (ii) and substitute the following: "A. Of persons, property and mail between a point or points in the Netherlands, and (i) The coterminal points New York, New York; Chicago, Illinois; Houston, Texas; Los Angeles, California; and Atlanta, Georgia; (ii) The intermediate point Montreal, Canada to Houston, Texas, and beyond to Mexico City, Mexico, without traffic rights between Houston and Mexico City, and without stopover rights at Houston; (iii) The intermediate point Montreal, Canada to Atlanta, Georgia and beyond to Mexico City, Mexico, without traffic rights between Atlanta and Mexico City, and without stopover rights at Atlanta." Answers to the Application may be filed by February 24, 1981.
Jan. 30, 1981	39224	Saudi Arabian Airlines Corporation, c/o William A. Nelson, Shea & Gould, 1627 K Street, N.W., Washington, D.C. 20006. Application of Saudi Arabian Airlines Corporation, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests that it be issued a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of persons, property and mail between a point or points in Saudi arabia and New York, New York. Pursuant to this requested authority, Saudi intends to operate initially between Jeddah, Saudi Arabia and New York, New York, with a technical stop at Shannon, Ireland. Answers may be filed by February 27, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–4450 Filed 2–5–81; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 39158]

Wings International Airways, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on February 19, 1981, 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.

The issues in the proceeding will be those prescribed by the Board in Order 81-1-75. Additional evidence submissions and further precedural dates will be discussed at the conference.

Dated at Washington, D.C., February 2, 1981.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 81-4451 Filed 2-5-81; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 7-80, Docket No. 8-80]

Consolidation of Foreign-Trade Zones Applications; Greater Detroit Area

Notice is hereby given that two separate applications filed on May 14, 1980 for the establishment of foreign-trade zones in the Greater Detroit Area have been consolidated under Docket No. 8-80.

Docket No. 7-80 involved the application of the City of Detroit for a zone at the Clark Street Port facility within the City; and, Docket No. 8-80 involved the application of the Greater Detroit Foreign-Trade Zone, Inc. (GDFTZ), a Michigan nonprofit corporation, for a zone in Dearborn and a special-purpose subzone at Ford Motor Company's tractor assembly plant in Romeo (45 FR 34029).

Both proposals have been consolidated by mutual agreement of the applicants, with a restructured GDFTZ emerging as applicant for both proposals. This action was taken by Detroit Mayor Young and officials of Greater Detroit Chamber of Commerce in an effort to provide foreign-trade zone services in an efficient and coordinated manner throughout the Greater Detroit area. A reorganizational meeting of GDFTZ was held in Detroit on January 23, 1981.

Interested parties may submit their comments on this consolidation to the Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2006, Washington, D.C. 20230. Comments must be postmarked prior to February 20, 1981. For further information call (202) 377-2862.

Dated: February 2, 1981.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 4346 Filed 2-5-81; 8:45 am]
BILLING CODE 3510-25-M

[Docket No. 3-81]

Proposed Foreign-Trade Zone, Greater Hartford Area; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zone Board (the Board) by the Industrial Development Commission of Windsor Locks, Connecticut (IDC), a public agency for the Town of Windsor Locks, a municipal corporation, requesting authority to establish a general-purpose foreign-trade zone in Windsor Locks, Connecticut, within the Hartford Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 26, 1981. The applicant is authorized to make this proposal under Public Act 76-160 of the Laws of Connecticut.

The applicant proposes to establish a foreign-trade zone adjacent to Bradley International Airport to provide zone services for the Greater Hartford area. The 17.5-acre zone will be located within the 38.5-acre Crown Industrial Park at 399 Turnpike Road, Windsor Locks. A partnership involving Charles Rubenstein and Hubert Arons, owner of the park, will operate the zone as an integral part of the overall project. A 28,000 square foot general-purpose warehouse, currently under construction, will be available to initial zone users. Other facilities will be built as demand for zone services develops.

The zone project is being undertaken by the IDC, in cooperation with the Town of Windsor Locks, the Greater Hartford Chamber of Commerce, the Capitol Region Council of Governments and the State of Connecticut. It is part of their effort to improve international trade related business and employment opportunities.

The application contains evidence concerning the need for zone services in the Greater Hartford area. A wide range of businesses have indicated an interest in using the zone for storage, distribution, processing and light manufacturing of products such as electronic relays and components, precious metals, specialty ores, metallurgical testing devices, vacuum components, electric wire harnesses and plugs, machine tool components, and toys.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: David L. Binder (Chairman), Division Director, Import Administration, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, 100 Summer Street, Boston, Massachusetts 02110; and Colonel C. Ernest Edgar III, Division Engineer, U.S. Army Engineer Division, New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

As part of its investigation, the Examiners Committee will hold a public hearing on March 4, 1981, beginning at 9:00 a.m., in the Auditorium of the Hartford Public Library, 500 Main Street, Hartford. 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 February 27, 1981. 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 April 3, 1981. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and 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 District Office, Room 610-B, Federal Office Building, 450 Main Street, Hartford, Connecticut 06103;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S.

Department of Commerce, Room 2006, 14th and E Streets, N.W., Washington, D.C. 20230.

Dated: January 30, 1981

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 81-4345 Filed 2-5-81; 8:45 am]

BILLING CODE 3510-25-M

National Telecommunications and Information Administration

Frequency Management Advisory Council; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Frequency Management Advisory Council (FMAC) will meet from 9:30 a.m. to 3:30 p.m. on February 20, 1981, in the Aspen Room at the National Telecommunications and Information Administration, 1325 "G" Street, N.W., Washington, D.C. (Public entrance to the building is on "G" Street, between 13th Street and 14th Street, N.W.)

The Council was established on July 19, 1965. The objective of the Council is to advise the Secretary of Commerce on radio frequency spectrum allocation matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Council consists of 15 members whose knowledge of telecommunications is balanced in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The agenda items for the meeting will be:

(1) Briefing on Solar Powered Satellite, Mr. Frederick A. Koomanoff, Director of Solar Power Satellite Project Division, Dept. of Energy.

(2) Briefing on Current Developments within NTIA, Mr. Richard D. Parlow, Chief, Spectrum Engineering and Analysis Division, NTIA.

(3) Discussion of National Long Range Spectrum Planning—Chairman.

(4) Discussion of FCC Rules and Regulations, Part 15, Radio Frequency Devices—Chairman.

(5) Any Procedural Business of the Council.

(6) Scheduling of the next meeting.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before February 18, 1981. Other public statements regarding Council affairs may be submitted at any time before or after the meeting. Approximately 15 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Council Control Officer, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 268, 1325 "G" Street, N.W., Washington, D.C. 20005, telephone 202-724-3301.

Dated: February 3, 1981.

Dennis R. Connors,

Acting Committee Liaison Officer, National Telecommunications and Information Administration.

[FR Doc. 81-4415 Filed 2-5-81; 8:45 am]

BILLING CODE 3510-60-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contracts; Proposed Rules of Major Economic Significance; Terms and Conditions of the Long-Term United States Treasury Bond Futures Contract of the MidAmerica Commodity Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rules of contract markets.

SUMMARY: The MidAmerica Commodity Exchange ("MACE") has applied for designation as a contract market in long-term United States Treasury bonds ("U.S. T-bonds"). The Commodity Futures Trading Commission ("Commission") has determined that the proposed terms and conditions of this proposed futures contract are of major economic significance and that, accordingly, publication of the proposed terms and conditions is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 7, 1981.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to MACE Long-Term U.S. T-Bond Futures Contract.

FOR FURTHER INFORMATION CONTACT: George L. Garrow, Jr., Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581; Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The terms and conditions of MACE's proposed long-term U.S. T-bond futures contract are as follows:

Chapter 18—U.S. Treasury Bonds

1800. *Application of Rules*—Futures transactions in long-term U.S. Treasury bonds shall be subject to the general rules of the Association as far as applicable and shall also be subject to the rules contained in this chapter, which are exclusively applicable to trading in long-term U.S. Treasury bonds.

1801. *Unit of Trading*—The unit of trading shall be United States Treasury bonds having a face value at maturity of fifty thousands dollars ($50,000) or multiples thereof.

1802. *Months Traded in*—Trading in long-term U.S. Treasury bonds may be conducted in the current month and any subsequent months.

1803. *Price Basis*—Minimum price fluctuations shall be in multiples of one one hundred twenty-eighths (1/128 point per 100 points ($3.91 per contract). Par shall be on the basis of 100 points. Contracts shall not be made on any other price basis.

1804. *Hours of Trading*—The hours of trading for future delivery in U.S. Treasury bonds shall be from 8:00 A.M. to 2:15 P.M. except on the last day of trading in an expiring future, the closing time for such future shall be 12:15 P.M.

1805. *Trading Limits*—(See rule 405)

1806. *Last Day of Trading*—No trades in long-term U.S. Teasury bond futures deliverable in the current month shall be made during the last seven business days of that month and any contracts remaining open must be settled by delivery or as provided in rule 1807 after trading in such contracts has ceased.

1807. *Liquidation in the Last Seven Days of the Delivery Month*—After trading in contracts for future delivery in the current delivery month has ceased in accordance with rule 1806 of this chapter, outstanding contracts may be liquidated by the delivery of book-entry U.S. Treasury bonds (rule 1808A) or by mutual agreement by means of a bona fide exchange of such current futures for the actual long-term U.S. Treasury bonds or comparable instruments.

1808. *Delivery Procedures*—

A. *Standards*—The contract grade for delivery on futures contracts made under these rules shall be long-term U.S. Treasury bonds which if callable are not callable for at least 15 years or if not callable have a maturity of at least 15 years. All bonds delivered against a contract must be of the same issue. For settlement, the time to maturity (time to call if callable) of a given issue is calculated in complete three month increments (i.e. 15 years and 5 months = 15 years and 1 quarter) from the first day of the delivery month. The price at which a bond with this time to maturity (time to call if callable) and with the same coupon rate as this issue will yield 8% according to bond tables prepared by the Financial Publishing

Co. of Boston, Mass., is multiplied times the settlement price to arrive at the amount which the short invoices the long.

Interest accrued on the bonds shall be charged to the long by the short in accordance with Department of the Treasury Circular 300, Subpart P.

New issues of long-term U.S. Treasury bonds which satisfy the standards in this rule shall be added to the deliverable grade as they are issued. The Board shall have the right to exclude any new issue from deliverable status or to further limit outstanding issues from deliverable status.

B. *Deliveries on Futures Contracts*—Deliveries against long-term U.S. Treasury bond futures contracts shall be by book-entry transfer between accounts of Clearing Members at qualified banks (rule 1814) in accordance with Department of the Treasury Circular 300, Subpart O: Book-Entry Procedure. Delivery must be made no later than the last business day of the month. Notice of intention to deliver shall be given to the Clearing House by 12:00 noon on the business day preceding delivery day; except that, if delivery is to be made on the last business day of the month, notice of intention to deliver may be given to the Clearing House until 2:00 P.M. on the business day preceding delivery day.

In the event the long Clearing Member does not agree with the terms of the invoice received from the short Clearing Member, the long Clearing Member must notify the short Clearing Member, and the dispute must be settled by 9:30 A.M. on delivery day. The short Clearing Member most have the bonds in acceptable (to his bank) delivery form by 10:00 A.M. on delivery day. He must notify his bank (rule 1814) to transfer contract grade U.S. Treasury bonds by book-entry to the long Clearing Member's account on a delivery versus payment basis. That is, payment shall not be made until the bonds are delivered. The long Clearing Member must notify his bank (rule 1814) to accept contract grade U.S. Treasury bonds and to remit in Federal funds to the short Clearing Member's account at the short Clearing Member's bank (rule 1814) before 1:00 P.M. on delivery day. All deliveries must be assigned by the Clearing House. Where a commission merchant as a member of the Clearing House has an interest, both long and short, for customers on its own books, it must tender to the Clearing House such notices of intention to deliver from its customers who are short.

C. *Poss Notice Provision*—A buyer who receives a delivery notice from the Clearing House may, on the same day, sell the Treasury bond(s) specified therein and deliver the identical notice together with the name of the buyer, to the Clearing House no later than 12:00 noon on the same day, and the Clearing House shall then, on the same day, pass the notice to the buyer obligated by the oldest contract to take delivery of the same amount of the same commodity; provided that such buyer may, after having tried unsuccessfully to sell such Treasury bonds on Change, sell such Treasury bonds to a changer. In the event of such a sale to a changer, the identical delivery notice shall be delivered to the changer, and the changer shall deliver the Treasury bonds referred to in such delivery notice on the Chicago Board of Trade in satisfaction of the sale on the Chicago Board of Trade which the changer was obligated to make under the provisions of rule 919.

D. *Wire Failure*—In the event that delivery cannot be accomplished because of a failure of the Federal Reserve wire or because of a failure of either the long Clearing Member's bank or the short Clearing Member's bank access to the Federal Reserve wire, delivery shall be made before 9:30 A.M. on the next business day on which the Federal Reserve wire or bank access to it is operable. Interest shall accrue to the long paid by the short beginning on the day on which the bonds were to be originally delivered.

In the event of such failure, both the long and short must provide documented evidence that the instructions were given to their respective banks in accordance with rules 1806B and 1813 and that all other provisions of rules 1806B and 1813 have been complied with.

1809. *Date of Delivery*—Delivery of U.S. Treasury bonds may be made by the short upon any permissible delivery day of the delivery month the short may select. Delivery of U.S. Treasury bonds must be made no later than the last business day of that month.

1810. *Delivery Notice*—A seller obligated or desiring to make delivery of a commodity will issue and deliver to the Clearing House a signed delivery notice containing the name and business address of the issuer; the date of the issue; the date of delivery; the name of the commodity; and the total contracted quantity in satisfaction of which the delivery is being tendered.

Such notices shall also identify the type of documents by which delivery is to be effected; shall state the location(s) or delivery point(s) of the commodity; and, where contracts permit delivery of more than one grade, class or type of the commodity, shall specify the grade(s), class(es), and/or type(s) of the commodity being tendered. Provided, however, that on the final notice day of the month, the information called for in this paragraph may be omitted from the notice.

1811. *Method of Delivery*—Delivery notices must be delivered to the Clearing House which shall assign the deliveries to clearing members (buyers) having contracts to take delivery for the same amounts of the same commodities. The Clearing House shall notify such clearing members, in writing, of the deliveries which have been assigned to them and shall furnish to issuers of delivery notices the names of the clearing members obligated to accept their deliveries.

1812. *Sellers' Invoices To Buyers*—Upon determining the buyers obligated to accept deliveries tendered by issuers of delivery notices, the Clearing House shall promptly furnish each issuer the names of the buyers obligated to accept delivery from him and a description of each commodity tendered by him which was assigned by the Clearing House to each such buyer. Thereupon, sellers (issuers of delivery notices) shall prepare invoices addressed to their assigned buyers, describing the documents to be delivered to each such buyer. Such invoices shall show the amount which buyers must pay to sellers in settlement of the actual deliveries, based on the delivery prices established by the Clearing House, and adjusted for applicable interest payments. Such invoices shall be delivered to the Clearing House by 12:00 noon on the day of intention, except on the last intention day of the month, where such invoices shall be delivered to the clearing house by 2:00 P.M. Upon receipt of such invoices, the Clearing House shall promptly make them available to buyers to whom they are addressed, by placing them in buyers' mail boxes provided for that purpose in the Clearing House.

1813. *Payment*—Payment shall be made in federal funds. The long obligated to take delivery must take delivery and make payment before 12:00 noon on the day of delivery except on banking holidays when delivery must be taken and payment made before 9:30 A.M. the next banking business day. Adjustments for differences between contract prices and delivery prices established by the Clearing House shall be made with the Clearing House in accordance with its rules.

1814. *Regularity of Banks*—For purposes of these rules relating to trading in long-term U.S. Treasury bonds, the word "Bank" (rule 1809B) shall mean a U.S. commercial bank (either Federal or State charter) that is a member of the Federal Reserve System and with capital (capital, surplus and undivided earnings) in excess of one hundred million dollars ($100,000,000).

* * * * *

The Commission also will make available any other materials submitted by the MACE in support of its application for contract market designation to the extent that such materials are not entitled to confidential treatment under Part 145 of the Commission's regulations (17 CFR Part 145). Copies of such materials submitted by the MACE in support of its application for designation will be available through the Commission's Secretary or its offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the MACE in support of its application for contract market designation, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by April 7, 1981.

Issued in Washington, D.C., on January 30, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-4181 Filed 2-5-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Considered Local Protection Project on Pleasant Run Creek and Its Tributaries at Fairfield, Ohio

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. Proposed Action: The proposed action is to study the feasibility for reducing flood damages along Pleasant Run Creek and its tributaries at Fairfield, Ohio. Pleasant Run Creek is a tributary of the Great Miami River. Two alternative structural plans have been initially selected for detailed consideration. These include channel widening and dry bed reservoirs.

2. Alternatives: *Plan 1.* This alternative would require 2.56 miles of channel widening on Pleasant Run Creek from Groh Lane to East Fork Tributary. *Plan 2.* This alternative would require channel widening on about 0.83 mile of Pleasant Run Creek from Nilles Road to East Fork Tributary. In addition, three dry bed reservoirs would be constructed in the upstream reaches of Pleasant Run and its tributaries.

3. Scoping Process: A Plan Formulation Public Meeting was held on 20 November 1980, in Fairfield. This meeting constituted a part of the scoping process as the alternatives, potential impacts and evaluations were presented to the public and affected agencies for their consideration. Views and comments were solicited and obtained. The primary environmental issues are the impacts on the existing fish and wildlife of the area and the potential for significant alterations of property and vegetation along the channel. These environmental issues will be coordinated with affected agencies and individuals that have expressed an interest.

4. Scoping Meeting: The aforementioned meeting and coordination efforts are expected to adequately define the scope of issues to be addressed in the DEIS. No additional meeting for scoping purposes will be held.

5. DEIS Preparation: As presently scheduled, the DEIS will be available to the public in June 1981.

ADDRESS: Questions regarding the proposed action, the Draft Environmental Impact Statement, or the scoping process should be directed to C. E. Eastburn, Colonel, Corps of Engineers, 600 Federal Place, P.O. Box 59, Louisville, KY 40201. Telephone (502) 582–5601.

Dated: January 30, 1981.

By Authority of the Secretary of the Army.

C. E. Eastburn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 81–4386 Filed 2–5–81; 8:45 am]

BILLING CODE 3710-GF-M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Modification of William Bacon Oliver Lock and Dam on the Existing Black Warrior-Tombigbee Rivers Navigation Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a DEIS to evaluate the environmental impact of modifying William Bacon Oliver Lock and Dam on the existing Black Warrior and Tombigbee Rivers Navigation Project. The modification being considered is the replacement of the 95- by 460-foot William Bacon Oliver Lock at Tuscaloosa, Alabama, with a lock having chamber dimensions of 110 by 600 feet as well as adding hydroelectric power generating facilities at the site of the replacement structure. The DEIS will include an evaluation of the environmental impact of induced development associated with the modifications.

2. *Alternatives:* The following basic alternatives will be evaluated:

a. No Action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Rehabilitation of the existing Oliver Lock and Dam.

c. Improved management procedures at the existing Oliver Lock and Dam.

d. Replacement of the lock at the existing location.

e. Replacement of the existing lock and dam at a downstream site.

f. Other transportation modes.

3. *Scoping Process:* a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS will be determined through the scoping process. The agencies and individuals views and concerns will be obtained through personal, telephone, and mail contacts in lieu of a formal scoping meeting.

b. Coordination with the US Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in February 1982.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Henry A. Malec, PD–ES, US Army Engineer District, Mobile, P.O. Box 2288, MObile, Alabama 36628.

Dated: January 27, 1981.

Robert H. Ryan,

Colonel, EN District Engineer.

[FR Doc. 81–4387 Filed 2–5–81; 8:45 am]

BILLING CODE 3710-CR-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Search Committee of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of the meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: Search Committee meeting: March 7, 1981, 9:00 a.m. to 5:00 p.m.

ADDRESS: Arizona State University, Room 302F Farmer Building, Tempe, Arizona 85281.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, 425 13th Street, N.W., Suite 326, Washington, D.C. 20004, 202/376–8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92–318, (20 U.S.C. 1221g). The Council is established to:

(1) submit to the Secretary of Education a list of nominees for the position of Deputy Assistant Secretary for the Office of Indian Education;

(2) advise the Secretary of Education with respect to the administration (including the development of

regulations and administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81–874) and, Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92–318 and amended by Pub. L. 93–380), and with respect to adequate funding thereof;

(3) review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81–874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92–318), and make recommendations to the Secretary with respect to their approval;

(4) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit, and disseminate any results of such evaluations;

(5) provide technical assistance to local educational agencies and to Indian educational agencies, institutions and organizations to assist them in improving the education of Indian children;

(6) assist the Secretary of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81–874) as added by Title IV, Part A, of Pub. L. 92–318;

(7) submit to the Congress not later than June 30 of each year a report of its activities, which shall include any recommendation it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Secretary with respect to the funding of any such programs; and,

(8) be consulted by the Secretary of Education regarding the definition of term "Indian," as follows:

Sec. 453 [Title IV, Pub. L. 92–318]. For the purpose of this title, the term "Indian" means any individual who (1) is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member or, (2) is considered by the Secretary of the Interior to be an Indian for any purpose or, (3) is an Eskimo or Aleut or other Alaska Native or, (4) is determined to be an Indian under regulations promulgated by the Secretary, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The Search Committee meeting will be closed to the public from 9:00 a.m. to 5:00 p.m. on March 7, 1981, to review applications for the position of Deputy Assistant Secretary for the office of Indian Education. The meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act [Pub. L. 92–463; 5 U.S.C. Appendix I and under exemptions (2) and (6) contained in the Government in the Sunshine Act Pub. L. 94–409; 5 U.S.C. 552b(c) (2) and (6)]. Discussion of the applications will include consideration of the qualifications and fitness of the candidates and will touch upon matters which would consitute a serious invasion of privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within fourteen days of the meeting.

The proposed agenda includes:

(1) Reviewing of applications.

(2) Consideration of the qualifications and fitness of candidates.

Dated: January 16, 1981.

Signed at Washington, D.C.

Michael P. Doss,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 81-4408 Filed 2-5-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Intent To Prepare Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) on proposed financial assistance programs for energy recovery from industrial wastes.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS, in accordance with Section 102(2)(c) of NEPA, to assess the environmental implications of proposed DOE programs for financial assistance to industry for the recovery of energy from waste products as authorized by the Biomass Energy and Alcohol Fuels Act of 1980 (Title II of the Energy Security Act, Pub. L. 96–294). Potential forms of financial assistance include construction loan guarantees, construction loans, price guarantees, and price support loans.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration in connection with the preparation of the draft EIS are invited to do so. No scoping meeting is presently scheduled. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time comments will be solicited and considered in preparing the final EIS.

Written comments or suggestions on the scope of the EIS may be submitted to: Theodore C. Collins, CS–461, Office of Assistant Secretary, Conservation and Solar Energy, U.S. Department of Energy, Washington, D.C. 20585, (202) 252–2384.

For general information on the NEPA process contact: Nan Evans, EV–121, NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of Assistant Secretary for Environment, U.S. Department of Energy, Washington, D.C. 20585, (202) 252–4610.

DATES: Written comments postmarked by April 7, 1981 will be considered in the preparation of the EIS.

Background Information

The Energy Security Act (Pub. L. 96–294) was passed to reduce the dependence of the United States on imported petroleum and natural gas. Title II, Subtitle B of the Act authorizes DOE to establish a program to provide loans covering up to 80 percent, and to make loan guarantees for loans covering up to 90 percent, of the construction costs of municipal waste-to-energy projects. The Energy Security Act also authorizes DOE to provide price guarantees and price support loans for municipal waste-to-energy projects. The program is designed to provide incentives for the financing of construction and startup costs of facilities for the conversion of municipal wastes into desirable forms of energy, including synthetic fuels. The program has the potential to reduce U.S. dependence on imported fuels, while decreasing the amount of solid waste requiring land disposal nationwide.

A proposed rulemaking issued by DOE to establish rules under which DOE will provide loan guarantees to assist in the financing of the construction of alcohol fuel, biomass energy, and municipal waste energy projects, as authorized by the Act, was published in the **Federal Register** on August 14, 1980 (45 FR 54264). The final

rule was published in the **Federal Register** on October 8, 1980 (45 FR 67022).

Under the Energy Security Act, "municipal waste" means any organic matter, including sewage, sewage sludge, industrial or commercial waste, and mixtures of such matter and inorganic refuse from any publicly or privately operated municipal waste collection or similar disposal system, or from similar waste flows (other than such flows which constitute agricultural waste or residues, or wood waste or residues from wood harvesting activities or production of forest products) (Section 203). Industrial wastes, which are included in the Energy Security Act's definition of municipal waste, result primarily from industrial production and handling processes, but also include wastes such as trash, garbage, sewage sludge, and other wastes that are generated in an industrial setting.

The environmental Assessment of DOE's Urban Waste Program (DOE/CS–0095, July 1979) covered municipal waste other than industrial wastes.

On October 8, 1980, DOE published in the **Federal Register** (45 FR 67038) a notice of availability of an environmental assessment (DOE/EA–0124) and a finding of no significant impact for certain waste-to-energy processes in three industries: wood proceesing, paper processing, and food processing. In that notice, DOE also declared that certain waste-to-energy processes have the potential to significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* Therefore, an Environmental Impact Statement (EIS) will be prepared for a full industrial waste-to-energy assistance program. Today's Notice of Intent addresses that requirement.

Identification of Environmental Issues

The following issues will be analyzed during the preparation of the EIS. This list is not intended to be all inclusive. Additional issues raised during the scoping process will also be considered.

(1) The environmental impacts (*e.g.*, air quality, water quality, solid wastes and socio-economic) of potentially eligible industries' waste streams or technologies not addressed in the September 1980 EA (*e.g.*, textile mills, feeds lots, grain mills, meat products recovery, oil re-refining, waste tire recovery, and organic chemicals and plastics waste-to-energy, recycled materials and remanufactured products).

(2) The environmental impacts of technologies covered in the September 1980 EA. The EA will be incorporated in the EIS by reference. Additional information will be provided, as necessary, to enable a comparative evaluation of alternatives and consideration of the cumulative impacts of the industrial waste-to-energy program.

(3) Mitigation considerations for processes with potential adverse environmental effects.

(4) Where data are unavailable, the implications of uncertainty or lack of information.

Alternatives

The Energy Security Act authorizes DOE to provide financial assistance to municipal waste energy projects, but does not establish a statutory production goal for projects of this sort. This EIS will, at a minimum, explore the following alternatives:

Alternative 1—DOE would accept applications for projects utilizing any of the industrial waste-to-energy processes covered by the EIS which could be shown to be environmentally, technically and economically acceptable. (Site specific NEPA review would be required.) Within acceptable process categories, DOE would solicit applications at specified time intervals to allow adequate comparison of technical, economic and environmental factors. The scope and magnitude of environmental impacts would depend in large measure of availability of funding and the extent to which process environmental impact scenarios will be developed for alternative funding levels.

Alternative 2—Within acceptable process categories identified as environmentally acceptable in the EIS, DOE would select, for intensive development, a limited number of processes. A number of environmental impact scenarios will be developed for alternative funding levels.

Alternative 3—Within acceptable process categories, DOE would select, for gradual development, a greater number of processes than under "Alternative 2", above. A number of environmental impact scenarios will be developed for alternative funding levels.

Alternative 4—DOE would accept applications only for projects involving industrial wastes and processes which have been judged by DOE not to pose significant impacts.

Alternative 5—DOE would take no action toward financial assistance for industrial waste-to-energy conversion, *i.e.*, by not requesting loan authorization. The EIS will examine the environmental impacts of programmatic alternatives to financial assistance for industrial waste-to-energy processes, including recycling of industrial wastes.

If applications are received involving industrial wastes or processes which have not been addressed in this EIS and which have environmental impacts that have not been assessed in the EIS, DOE will perform a supplemental NEPA review, as appropriate.

Written Comments

All interested parties desiring to submit comments or suggestions in connection with the preparation of the EIS should submit them to: Theodore C. Collins, CS–461, Office of Assistant Secretary, Conservation and Solar Energy, U.S. Department of Energy, Washington, D.C. 20585, (202) 252–2384.

Upon completion of the draft EIS, its availability will be announced in the **Federal Register** and public comments will again be solicited. Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comments when it is issued should notify Theodore C. Collins at the above address. Those seeking further information on the NEPA process may inquire with the above contact or: Nan Evans, EV–121, NEPA Affairs Division, Office of Environmental Compliance and Overview, Office of Assistant Secretary for Environment, U.S. Department of Energy, Washington, D.C. 20585, (202) 252–4610.

All suggestions, comments and questions submitted to Theodore C. Collins postmarked by April 7, 1981 will be carefully considered in the preparation of the Environmental Impact Statement.

Dated at Washington, D.C., this 2nd day of February 1981, for the United States Department of Energy.

William W. Burr, Jr.,

Acting Assistant Secretary for Environment.

[FR Doc. 81-4338 Filed 2-5-81; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

San Juan Islands Area Service, 115-kV Submarine Transmission Cable, Final Facility Location Supplement; Availability of Final Supplement

Notice is hereby given that the Bonneville Power Administration (Bonneville), in compliance with the National Environmental Policy Act of 1969, has prepared and is distributing the Final Facility Location Supplement (FFLS), San Juan Islands Area Service, 115-kV Submarine Transmission Cable. This document supplements Bonneville's Final Fiscal Year 1979 Proposed Program Environmental Impact Statement (EIS).

It assesses the environmental impacts of alternative routes for a 115-kV submarine transmission cable from Sunset Beach on Fidalgo Island to a substation on Lopez Island, Washington.

Copies of the supplement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, Bonneville Power Administration) and at Department of Energy public document rooms located at:

Library, FOI—Public Reading Room 1E–190 Forrestal Building, 1000 Independence Avenue, NW., Washington, D.C.;

BPA, Washington, D.C., Office, Room 3352, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.; and in the following BPA Area office:

Seattle Area, Room 250, 415 First Avenue North, Seattle, Washington.

Copies have also been furnished to those who commented on the draft location supplement.

Single copies are available upon request; contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621-SJ, Portland, Oregon 97208, or the BPA Area Office listed above.

Dated at Portland, Oregon, this 8th day of January 1981.

Ray Foleen,

Acting Administrator.

[FR Doc. 81-4341 Filed 2-5-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-80-043; ERA Case No. 51209-1393-27-22]

Gulf States Utilities Co.; Acceptance of Exemption Request Pursuant to the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Request Pursuant to the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On December 9, 1980, Gulf States Utilities Company (GSU) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibit the use of petroleum or natural gas as a primary energy source in new powerplants. A final rule setting forth the procedure for petitioning and the criteria for an exemption was published in the **Federal Register** on June 6, 1980 (45 FR 38276 and 45 FR 38302), 10 CFR Part 500. This rule became effective August 5, 1980.

The peakload powerplant for which the petition was filed is an oil- and/or natural gas-fired 114,828 kilowatt combustion turbine unit to be installed at GSU's generated plant at Westlake, Louisiana. GSU certifies the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. Under 10 CFR 503.41, GSU has requested a permanent exemption to construct the unit. ERA's decision in this matter will determine whether the proposed powerplant qualifies for the requested exemption.

ERA has accepted this petition pursuant to 10 CFR 501.3 and 501.63. In accordance with section 701(c) and section 701(d) of FUA, and 10 CFR 501.31 and 501.33 of the regulations, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before March 23, 1981. A request for public hearing must be made by any interested person within this same 45 day period.

ADDRESSES: Fifteen copies of written comments, or a request for a public hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit (FUA), Box 4662, Room 3214, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA–FC–80–043 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Jack C. Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

Louis T. Krezanosky, New Powerplants Branch Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3012B, Washington, D.C. 20461, Phone (202) 653–4208.

Christina Simmons, Office of General Counsel, Department of Energy, 6B–178 Forrestal Bldg., 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption to do so has been granted by ERA. GSU has filed a petition for a permanent peakload powerplant exemption to use petroleum/natural gas as a primary energy source in its proposed Roy S. Nelson Unit No. 7 combustion turbine. The unit will have a fuel heat input rate of 1211 MM BTU per hour at peak capacity.

To qualify for a peakload powerplant exemption under 10 CFR 503.41, 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.

GSU submitted a certifited statement by a duly authorized officer, Mr. J. H. Derr, Jr., Vice President of GSU, to the effect that the proposed oil- and/or gas-fired combustion turbine will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

Mr. Derr also certifies that the maximum design capacity of the powerplant is 114,828 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 172,242,000 Kwh.

GSU states that the Nelson Unit No. 7 is part of a project which includes several phases, the first of which is the purchase and installation of the Nelson Unit No. 7 turbine. The turbine will be designed to operate as a simple-cycle machine on natural gas with distillate oil as a backup to meet system peakload requirements. It will also have the capability to operate on synthetic gas as a fuel. GSU is currently examining the feasibility of converting Nelson Unit No. 7 to a combined cycle operation with Nelson Unit No. 4 by the addition of a waste heat recovery unit. It is noted that under FUA, conversion of the unit to combined cycle operation would constitute continuation of a new powerplant. In the final phase of the project, Westinghouse would design and construct and GSU would operate a coal gasification system (currently under review by DOE for possible federal financial assistance) to furnish medium Btu synthetic gas as fuel for Nelson Unit No. 7. GSU states that the commercial operation of the combined cycle unit and gasifier are dependent on the outcome of its feasibility studies and DOE's approval and funding of the gasifier project. GSU has previously submitted to ERA, pursuant to 10 CFR 503.24, a petition for a temporary exemption for the future use of synthetic fuels for the combined cycle phase of the Nelson Unit No. 7 project outlined

above. ERA is in the process of reviewing the information recently submitted in regard to the petition for the temporary exemption. GSU has submitted the petition for a peakload powerplant exemption, so that it may commence construction of Nelson Unit No. 7, which will be needed in the near term for meeting system peakload requirements.

On August 11, 1980, DOE published in the **Federal Register** (45 FR 53199) a notice of proposed amendments to guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for peakload powerplants, was identified as an action which normally does not require an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. GSU has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by GSU, pursuant to 10 CFR 503.15(b)(2), together with other relevant information. Unless it appears during the proceeding on GSU's exemption that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

ERA hereby accepts the filing of the petition for a permanent peakload exemption as adequate for filing. ERA retains the right to request additional relevant information from GSU at any time during the pendency of this proceeding. As set forth in 10 CFR 501.3(d), the acceptance of the petition by ERA does not constitute a determination that GSU is entitled to the exemption requested.

The public file containing documents on these proceedings and supporting material is available for inspection upon request at: ERA, Room B-110, 2000 M Street NW., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on February 2, 1981.

Robert L. Davies,

Assistant Administration, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-4339 Filed 2-5-81; 8:45 am]

BILLING CODE 6450-01-M

Oxnard Refinery; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective December 22, 1980.

COMMENTS BY: March 9, 1981.

ADDRESS: Send comments to: Stanley S. Mills, Program Manager for Entitlements, Office of Enforcement, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW, Room 5114, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Stanley S. Mills, Program Manager for Entitlements, Office of Enforcement, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW, Room 5114, Washington, D.C. 20461, (202/653-3548).

SUPPLEMENTARY INFORMATION: On December 22, 1980, the Office of Enforcement of the ERA executed a Consent Order with Oxnard Refinery of Oxnard, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective no sooner than 30 days after DOE has provided an opportunity for comment with respect to the Proposed Consent Order. Although the ERA has signed and tentatively accepted the Proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Oxnard Refinery (Oxnard), with its home office located in Oxnard, California, is a small refiner, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To receive certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Oxnard, the Office of Enforcement, ERA, and Oxnard entered into a Consent Order, the significant terms of which are:

1. Oxnard, in its forms P-102 and ERA-49 submitted for the period November 1974 through August 1980 allegedly included an ineligible product in its crude oil runs to stills. Also, Oxnard allegedly failed to make an adjustment to its crude oil runs to stills to exclude this ineligible product for this period. Therefore, Oxnard in its erroneous filings apparently violated the provisions of 10 CFR 211.66 (b) and (h) and 211.67(j).

2. Oxnard, as a result of the alleged misreporting of its crude oil runs to stills and its failure to make adjustments benefited from the Entitlements Program in the amount of $789,108, inclusive of interest.

3. Oxnard desires to comply with DOE's Mandatory Petroleum Allocation Regulations. ERA desires to resolve the above matters in the public interest by entering into this Consent Order.

II. (A) Disposition of Refunds and (B) Civil Penalties

A. In this Consent Order, Oxnard agrees to refund, in full settlement of all civil liability, excluding penalties, with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $789,108 on or before February 1, 1981. The refund will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded violation amounts requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that the violation amounts have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse

effects of the violation amounts may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

B. The Office of Enforcement determined that the matters resolved by this Consent Order were subject to civil penalties as provided by 10 CFR 205.203. Therefore, the Office of Enforcement and Oxnard agreed that civil penalties were compromised in the amount of $5,000. Said penalty applies only to the matters covered by the Consent Order and is expressly limited to the audit period. Oxnard tendered to the Office of Enforcement a certified check in the amount of $5,000 payable to the United States Treasury.

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comment or written notification of a claim to the above noted officer of DOE. You may obtain a free copy of this Consent Order by writing to the same address or by calling (202) 653-3548.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Oxnard Refinery Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on March 9, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 2d day of February 1981.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

[FR Doc. 81-4340 Filed 2-5-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders, Week of December 15 Through December 19, 1980.

During the week of December 15 through December 19, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Award Petroleum, Inc., New York, New York, BEA-0077, motor gasoline

Award Petroleum, Inc. filed an Appeal of an assignment order issued by the Region II Office of the Economic Regulatory Administration which designated Binet-Cooper Oil Co., Inc. instead of Award as the base period supplier for a new gasoline outlet. In considering the Appeal, the DOE determined that Award had willfully failed to submit information it had been instructed to provide in the course of the proceeding. Accordingly, the Appeal was dismissed with prejudice pursuant to 10 CFR 205.106(a)(2).

Baines, John M., Washington, D.C., BFA-0523, freedom of information

John M. Baines filed an Appeal from a response by the Acting Deputy Director of the Department of Energy Office of Hearings and Appeals (the Deputy Director) of a Request for Information which he had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that documents located in the Office of Hearings and Appeals Public Docket Room are properly indexed in compliance with Section (a)(2) of the FOIA and that such documents are not available for production by the agency pursuant to an FOIA Request. The DOE also determined that portions of several responsive documents which were withheld by the Deputy Director under Exemption 4 should have been released to Mr. Baines, since the deleted information was already publicly available. Other Exemption 4 material concerning Johnson Oil Company was released to Mr. Baines in his capacity as agent for that firm.

Dorchester Gas Corporation, Washington, D.C., BEA-0310, crude oil

Dorchester Gas Corporation filed an Appeal from the December 1979 Entitlement Notice, 45 FR 13796 (1980). In its submission Dorchester: (i) challenged the validity of the methodology used by the Economic Regulatory Administration's (ERA)'s Office of Petroleum Operations (OPO) to correct reporting errors in the Entitlements Program; and (ii) questions the equity of ERA's correction to Dorchester's entitlements obligations reflected in the December 1979 Entitlement Notice (published February 1980). In considering the applicable regulations the DOE found that although the OPO is permitted some discretion in making corrections to entitlements reporting errors certain factors which should be considered were not considered in the case of Dorchester. The DOE therefore granted Dorchester's Appeal and issued $384,594.64 of additional entitlements to the firm.

Foster Associates, Inc., Washington, D.C., BFA-0525, freedom of information

Foster Associates, Inc. (Foster) filed an Appeal from a denial by the Director of the Office of Oil and Gas Statistics (OGS) Director of the Energy Information Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). Foster's request for access to industry-wide refinery input data for crude oil was denied because the data were confidential pursuant to 5 U.S.C. 552(b)(4), and their release would be likely to cause competitive harm to the industry. In considering Foster's Appeal, OHA found that the record did not provide sufficient information with which to evaluate the merits of the claim of competitive harm. Accordingly, the request was remanded to the OGS Director so that industry sources could be consulted, and a more reasoned determination made.

Ginsburg, Feldman, Weil, and Bress; Washington, D.C., BFA-0524, Freedom of Information

The law firm of Ginsburg, Feldman, Weil and Bress filed an Appeal from a partial denial by the Acting Assistant Administrator for Enforcement of the ERA of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found the Assistant Administrator's determination was adequate with respect to the two documents withheld under Exemption 5, but that the Assistant Administrator should conduct an additional search for documents responsive to the request for information.

Husky Oil Company, Denver, Colorado; Pierce Oil Company, Price, Utah, BEA-0501, BEA-0502, BER-0067, BEA-0536, Motor Gasoline

Husky Oil Company filed an Appeal of two assignment orders issued to the firm by the Economic Regulatory Administration directing the firm to supply motor gasoline to two jobbers which in turn will supply two new retail outlets. In considering the Appeal, the DOE found Husky's contention that it should not have been assigned to supply these outlets since it was an unwilling prime supplier to be without merit. The DOE noted that it is frequently necessary to assign unwilling suppliers to new retail outlets in order to further the statutory and regulatory objectives that the DOE must administer. The DOE also rejected Husky's contention that it should not have been assigned in view of its

allocation fraction and the cumulative effect on its fraction of recent assignment orders issued to the firm. Although the ERA guidelines for considering applications for assignment by new retail outlets state that suppliers will not normally be assigned if their allocation fraction is substantially below 1.0, and that the cumulative effect on a firm's allocation of recent assignments will be considered, the DOE noted that this would not prevent the assigment of a supplier, such as Husky which had an allocation fraction above the national average.

The DOE found, however, that these assignment orders were deficient since they did not contain a sufficient statement of the basis for assigning Husky. The DOE found this ommission to be harmless with respect to one assignment order where the choice of Husky as supplier was obvious. Accordingly, the DOE denied Husky's Appeal of that order but granted its Appeal of the other assignment order where the selection of Husky as supplier was not obvious and where Husky had raised specific arguments as to why its assignments would be impracticable.

Husky also filed an Application for Rescission of a Decision and Order issued by the Western Regional Center which denied its Appeal of another assignment order. The DOE rejected Husky's contention that that decision failed to set out the facts and law upon which it relied, and found that the decision was correct. Accordingly, the DOE denied the Application for Rescission.

Pierce Oil Company also filed an Appeal of the assignment order that was the subject of Husky's Application for Rescission. The DOE found that the assignment would not confer an unfair competitive advantage upon the new retail outlet, as alleged by the appellant, and therefore denied the Appeal.

Shell Oil Company, United Refining Company, Warren, Pennsylvania, DEA-0389, DEA-0386, Crude oil

Shell Oil Company and United Refining Company filed Appeals from an Order issued by the Economic Regulatory Administration (ERA) granting United a supplemental allocation of crude oil under the Buy/Sell Program. In its Appeal, United argued that ERA did not grant United a sufficient allocation of crude oil to replace a shortfall of crude oil which resulted from events in Iran. In Shell's Appeal, the firm argued that United was not eligible for relief under the Buy/Sell program. In considering the request, OHA found that ERA should have granted United a larger allocation of crude oil. OHA also found that Shell's arguments regarding United eligibility were without merit. Consequently, the United Appeal was granted, and the Shell Appeal was denied.

Southland Corporation, Renton, Washington, BEA-0452, motor gasoline

Southland Corporation filed an Appeal from an ERA Assignment Order in which the firm alleged that the Order was factually and procedurally incorrect. In considering the Appeal, the DOE found that the Order failed to meet certain standards set forth in the *Guidelines for Evaluations of Applications for Assignments of Supplier and Base Period Use to New Gasoline Retail Sales Outlets*, 2 CCH Fed. Energy Guidelines ¶ 14,712, as well as standards set forth in previous OHA decisions. Accordingly, the firm's Appeal was granted.

Tappan, Mike, Denver, Colorado, BFA-0527, Freedome of information

Mike Tappan, a freelance writer, filed an Appeal from a denial of a request by the DOE Director of FOI Act Activities for waiver of fees. The OHA found that the waiver was properly denied because there was not a substantial likelihood that Tappan's proposed article dealing with the subject matter of the request would in fact be published. In view of the uncertainties arising from the requester's status, substantial doubt existed as to whether furnishing the information could be considered as primarily benefitting the public, as opposed to the requester, within the contemplation of 10 CFR 1004.9. OHA did, however, require releasable information to be made available to Mr. Tappan for copying at his own expense.

Petitions For Special Redress

Commonwealth Oil Refining Company, Inc., San Antonio, Texas, BEG-0036, crude oil

Commonwealth Oil Refining Company, Inc., filed a Petition for Special Redress in which it requested that the DOE issue additional entitlements to the firm equivalent in value to entitlements which Corco was unable to sell as a result of the default on entitlements obligations by three refiners during the period May through December 1978. In approving the request, the DOE found that the inability of the three defaulting firms to purchase entitlements from Corco could well delay Corco's emergence from bankruptcy. The DOE therefore ordered that Corco shall be issued additional entitlements which are equivalent to $1,485,442.52.

Jay Oil Company, Fort Smith, Arkansas, BSG-0027, motor gasoline, diesel fuel

Jay Oil Company (Jay) filed a Petition for Special Redress seeking to dismiss enforcement proceedings because ERA had not complied with OHA orders. In considering the Petition, the DOE determined that Jay had not shown unreasonable prejudice or harassment. Accordingly, Jay's Petition for Special Redress was therefore denied.

Warmann Oil Company, St. Louis, Missouri, BSG-0001, motor gasoline

On October 23, 1979 Warmann Oil Company filed a Petition for Special Redress or Other Relief requesting that the firm be established as the base period supplier of motor gasoline to the St. Louis County Police Department. In considering the Petition, the DOE determined that more appropriate avenues of relief existed for the resolution of the firm's grievance. Accordingly, Warmann Oil Company's Peition was denied.

Requests For Exception

Bowman Oil Company, Marion, Illinois, BEO-0425, motor gasoline

On July 2, 1979 Bowman Oil Company filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to supply the DOE with enough information to analyze its Application. Accordingly, exception relief was denied.

Busler Enterprises, Inc., Evansville, Indiana, BXE-0907, motor gasoline

Busler filed an Application for Exception in which the firm requests an extension of exception relief previously granted. Specifically, the firm requests an exception from the provisions of 10 CFR 211.9. If this request were granted the firm would be assigned a new, lower-priced supplier of motor gasoline for the months of May through September 1980. In considering the firm's request, the DOE found that Busler is currently able to meet its total requirements for motor gasoline, at prices favorable to its operations, without purchasing from its higher-priced suppliers. Accordingly, the DOE denied the firm's request for an extension of exception relief.

Canepa's Car Wash, Stockton, California, DEE-6694, motor gasoline

Canepa's Car Wash filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm did not satisfy the criteria for exception. Accordingly, exception relief was denied.

Conoco, Inc., Houston, Texas, BEE-1043, crude oil

Conoco Inc. (Conoco) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Conoco to sell at market prices 100 and 60.05 percent of the crude oil produced and sold for the benefit of the working interest owners that are classified as integrated and independent producers, respectively, from the Plum Bush Creek Unit.

Dollar-Wise, Ltd., Afton, Iowa, BEE-1212, consumer products

Dollar-Wise, Ltd. filed an Application for Exception from the provisions of 10 CFR Part 430 in which the firm sought relief from the requirement that it test a new furnace developed by the firm in accordance with existing test procedures. In considering the request, the DOE found that exception relief was necessary to satisfy the interest of assuring that the costs associated with energy efficiency testing do not exceed the benefits derived from such testing. Accordingly, exception relief was granted.

Dow Chemical U.S.A., Freeport, Texas, BEE-1398, crude oil

Dow Chemical U.S.A. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) in which the firm sought the issuance of additional entitlements for the crude oil which it purchased to establish a starting inventory for a new refinery. In considering the request, the DOE found that exception relief was necessary to promote the national energy policy objective of fostering the construction of new refineries by small independent refiners.

R. H. Engelke, San Antonio, Texas, BXE-1494, crude oil

R. H. Engelke filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit R. H. Engelke to sell at upper tier ceiling prices 59.25 percent of the crude oil produced from the Bertha Copsey Lease.

Fuelgas Company, Inc., Washington, D.C., DEE-6000, propane

Fuelgas Company, Inc. filed an Application for Exception from the provisions of 10 CFR 212.111(c)(1). The Fuelgas request, if granted, would enable the firm to establish a single class of purchaser and pricing structure for two propane marketing firms which Fuelgas has recently acquired and consolidated into one business operation. The DOE found that Fuelgas would experience an unfair distribution of burdens if the firm were compelled to maintain separate pricing structures as required by § 212.111(c)(1). Accordingly, the firm's Application for Exception was granted.

Getty Reserve Oil Company, Denver Colorado, BXE-1342, crude oil

Getty Reserve Oil Company (Getty Reserve) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit Getty Reserve to sell at market prices 37.13 and 100 percent of the crude oil produced and sold for the benefit of the working interest owners from the SL-071595A Lease and the SL-069551 Lease, respectively.

Holland Oil Company, Washington, D.C., BEE-0567, gasohol

The Holland Oil Company filed an Application for Exception from 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for the purpose of blending and marketing gasohol. Subsequent to the issuance of a Proposed Decision and Order in this proceeding, Holland informed the DOE that as a result of financial difficulties it would be unable to purchase any of the additional volumes of unleaded gasoline tentatively awarded the firm in the Proposed Decision and Order. Accordingly, the DOE determined that Holland's Application for Exception should be dismissed.

Jubilee Oil Company, Chicago, Illinois; DEE-2625 motor gasoline

Jubilee Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought the replacement of one of its base period suppliers. In considering the request, the DOE found that the firm did not satisfy the criteria for exception relief. Accordingly, exception relief was granted.

McAlester Fuel Company, Houston, Texas; BEE-1355 crude oil

McAlester Fuel Company (McAlester) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. Exception relief was granted to permit McAlester to sell at market prices 100 and 66.79 percent of the crude oil produced and sold for the benefit of the working interest owners that are classified as integrated and independent producers, respectively, from the Kelly Field Tyler Sand Unit.

Moore's Gulf, Melbourne, Florida; BEE-1411 motor gasoline

Moore's Gulf filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to prevent the firm from experiencing a gross inequity. Accordingly, exception relief was granted.

Power Test Petroleum Distributors, Inc., Westbury, New York; BEE-0764 Gasohol

Power Test filed an Application for Exception from the provisions of 10 CFR Part 211 in which it sought an increased allocation of unleaded gasoline for use in the production of gasohol. In considering the firm's request, the DOE found that Power Test had not shown that meeting the total need of its gasohol program through use of its existing allocation of unleaded would significantly disrupt its nongasohol operations. Accordingly, the firm's exception request was denied.

Relco Exploration Company, Inc., Monroe, Louisiana; DEE-1785 crude oil

Relco Exploration Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212 Subpart D in which the firm sought to adjust retroactively the base production control level of a crude oil producing property. In considering the request, the DOE found that the firm had failed to demonstrate that a DOE regulatory requirement, rather than the firm's own failure to properly certify its production, was responsible for the firm's alleged hardship. Accordingly, exception relief was denied.

Riggle Oil Company, Grand Junction, Colorado; BEE-1528 motor gasoline

Riggle Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm wished to be assigned as a supplier of new bulk purchasers of motor gasoline, and therefore was not requesting an exception but rather an assignment. Consequently, the Office of Hearings and Appeals determined that the exception process would be an unapproved vehicle for Riggle to accomplish its objectives, and the firm's Application for Exception was dismissed without prejudice.

Saint Lucie County, Florida, Fort Pierce, Florida; BEE-1026 motor gasoline

Saint Lucie County, Florida filed an Application for Exception on behalf of motor gasoline retailers in the county. In its application, the County stated that during the winter months county motorists had been experiencing considerable difficulty in obtaining adequate supplies of motor gasoline. The County therefore requested that the base period allocation of county retailers be increased. The DOE found that increases in permanent population, as well as a large influx of tourists to the county had increased the demand for gasoline in the County. This, in turn had resulted in a shortage of gasoline in Saint Lucie County during winter months. Accordingly, the DOE increased the base period allocations of County retailers by 10 percent for each month of the period December 1980 through April 1981.

Smitty's Amoco, Greenwich, Connecticut; DEE-6964 motor gasoline

Smitty's Amoco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to alleviate the firm's financial hardship caused by the imposition of the new base period. Accordingly, exception relief was granted.

Southern California Gas Company, Los Angeles, California; BEO-0443 motor gasoline

Southern California Gas Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not shown that it would be unable to maintain its service responsibilities in the absence of exception relief. Accordingly, exception relief was denied. The important issue discussed in the Decision and Order is the EPAA requirement to maintain essential public services.

Standard Oil Company of Indiana (Amoco), Washington, D.C; BEE-1301 propane

On November 16, 1979, the Standard Oil Company of Indiana filed an Application for Exception from the provisions of 10 CFR 212.83(c) in which the firm sought to exclude from its base period costs the marketing expenses associated with divested company-operated retail propane outlets. In considering the request, the DOE found that exception relief was necessary to ensure that the regulations did not impede the orderly transfer of assets. Accordingly, exception relief was granted.

J. L. Swartz, High Springs; BEO-0639 motor gasoline

J. L. Swartz filed an Application for Exception from the provisions of 10 CFR Part 211 in which the applicatant sought an increase in his base period allocation of motor gasoline. In considering the request, the DOE found that the applicant failed to demonstrate that he would suffer a serious hardship, gross inequity or unfair distribution of burdens in the absence of exception relief. Accordingly, exception relief was denied.

Uni Refining, Inc., Houston, Texas; DEE-0634 crude oil

Uni Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.65(c)(2) (the Buy/Sell Program) in which the firm sought the issuance of an order authorizing the firm to participate in the Emergency Crude Oil Buy/Sell Program as a refiner/buyer. In considering the request, the DOE found that Uni had failed to show that it qualified for participation in the Emergency Crude Oil Buy/Sell Program or that it was suffering a gross inequity, serious hardship, or unfair distribution of burdens as a result of the DOE regulations. Accordingly, Uni's exception request was denied.

Wilhelm Garage & Auto Parts, Peoria, Illinois; BEO-0661 motor gasoline

Wilhelm Garage & Auto Parts filed an Application for Exception from the provisions

of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm did not satisfy the criteria for exception relief. Accordingly, exception relief was denied.

Requests For Stay

Mobil Oil Corporation, New York, New York: BRS–1148 crude oil

Mobil Oil Corporation filed and Application for Stay of an enforcement proceeding pending before the Office of Hearings and Appeals in order to permit the firm to challenge directly in federal district court the DOE regulations underlying the enforcement proceeding. In considering the Application, the DOE determined that it would be inappropriate to permit Mobil to pursue its judicial remedies without first exhausting administrative remedies. Accordingly, Mobil's stay request was denied.

Thriftway Company, Washington, D.C.: BES–0078, BST–0078, BES–0092, BST–0092, crude oil

Thriftway Company filed an Application for Temporary Stay and an Application for Stay of its obligation to purchase entitlements under the provisions of 10 CFR 211.67 (the Entitlements Program). Thriftway also filed an Application for Temporary Stay and an Application for Stay of a Directed Purchase Order issued by the DOE to Thriftway on August 4, 1980, requiring the firm to purchase its outstanding entitlements for May 1980. In considering the Applications, the DOE determined that the financial material which the firm had filed indicated that the firm would not incur a serious financial hardship or irreparable injury in the absence of a temporary stay or a stay. The DOE further determined that Thriftway had failed to satisfy any of the criteria for the approval of a stay. Thriftway's Applications were therefore denied.

Motions For Discovery

Chevron U.S.A. Inc., Texaco Inc., Wyoming Refining Company, Washington, D.C.: BED–0154, BER–0078, BER–0079

In their Motions for Discovery, Chevron, Texaco and WRC seek access by their in-house counsel and other employees, to the entire record of the proceeding initiated by an Application for Exception from the provisions of 10 CFR 211.67, the Entitlements Program, filed by Little American Refining Company (Larco). The DOE states that it recognizes the needs of the intervenors for Larco's confidential financial data in order to evaluate the firm's claims of serious hardship and gross inequity. However, the DOE is concerned with a proper balance between the interevenors' data needs and the protection that should be afforded Larco against harm caused by a disclosure of proprietary data to its competitors. Because of this concern, the DOE, in previous Discovery Decisions issued to Texaco and WRC in connection with the Larco proceeding, directed Larco to provide its confidential data to independent counsel of each party to the proceeding, but not to its employees. In the current Decision, however, the DOE found that the intervenors correctly maintained that their outside counsel may benefit from consultation with the firms' employees and the consultation may be improved if the individuals on their staff have had an opportunity to review the confidential data involved. The DOE therefore ordered the intervenors and Larco to negotiate an agreement on the designation of three employees of each intervenor in addition to its in-house counsel to review Larco's confidential data. The DOE also ordered the parties to submit a Stipulation of Protective Order once the agreement is reached.

Getty Refining And Marketing Company, Marathon Oil Company, Mobil Oil Corporation, Phillips Petroleum Company, Chevron Company, U.S.A. Atlantic Richfield Company, Exxon Company, U.S.A., Conoco, Inc., Washington, D.C.: BED–0033, BEH–0033, BED–0041, BED–0034, BEH–0015, BED–0040, BEH–0040, BED–0039, BEH–0039, BED–0035, BEH–0035, BED–0069, BEH–0069, crude oil

Getty Refining and Marketing Company, Marathon Oil Company, Mobil Oil Corporation, Phillips Petroleum Company, Chevron Company, U.S.A. Atlantic Richfield Company, Exxon Company, U.S.A., and Conoco, Inc. filed Motions for Evidentiary Hearings and/or Discovery in connection with their Statements of Objections to a Proposed Decision and Order that was issued to the Union Oil Company of California on December 21, 1979. *Union Oil Co. of California*, No. DEE–5748 (December 21, 1979). *Statement of Objections* filed February 8, 1980. In considering the Discovery requests, the DOE determined that Union should provide additional data relating to its refinery utilization rate, percentage of heavy oil in its crude oil receipts, the firm's crude oil and home heating oil inventory levels, and other data. Accordingly, Union was directed to provide the specified data within fifteen days of the issuance of the Decision and Order. With the respect to the requests for evidentiary hearing, the DOE found that in view of the voluminous record in the Union proceeding, it did not appear that the convening of a formal evidentiary hearing would resolve the remaining contested issues. Accordingly, Motions for Evidentiary Hearing were denied. The petitioners were, however, accorded an opportunity to file additional Motions for Evidentiary Hearings after receipt of the material that will be released through the discovery determination.

Interim Order

The 341 Unit, Citronelle Field, Alabama: BEN–0071 crude oil

The 341 Tract Unit of the Citronelle Field (the Citronelle Unit) filed an Application for Interim Relief. The exception request, if granted, would permit the Citronelle Unit to implement the exception relief set forth in the October 8, 1980 Proposed Decision and Order on an interim and modified basis pending the issuance of a final Decision and Order on its Application for Exception or to request the implementation of an alternative method for financing the entire cost of the enhanced recovery program which would enable the Citronelle Unit to immediately implement the project and have access to funds necessary to finance the tertiary program. In considering the Citronelle Unit's request, the DOE noted that tertiary enhanced recovery projects were vital to meeting the energy needs of the nation and interim relief is justified in this case because the Citronelle Unit has shown that its project will contribute significantly to the energy resources of the nation. Therefore, partial interim relief was granted to the Citronelle Unit by the DOE to permit it to sell crude oil produced from that Unit since January 1, 1980 at market price levels and to permit the Citronelle Unit to undertake a tertiary enhanced recovery project in the near future; and the DOE also gave the Citronelle Unit the option of receiving alternate form of relief in lieu of the interim relief in the full amount requested ($60 million) if it waives access to any of the funding provisions of the tertiary incentive program as set forth in 10 CFR 212.78.

Supplemental Orders

Caribou Four Corners, Afton, Wyoming: BEX–0139 crude oil

On December 17, 1980, the DOE issued a Decision and Order to Caribou Four Corners staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 17, 1980.

Kentucky Oil & Refining Company, Inc., Betsy Layne, Kentucky: BEX–0137 crude oil

On December 16, 1980, the Department of Energy issued a Decision and Order to Kentucky Oil & Refining Company, Inc. staying that firm's obligation to purchase entitlements as otherwise required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 16, 1980.

Mohawk Petroleum Corporation, Inc., Los Angeles, California: DEX–0064 crude oil

The DOE conducted a year-end review of the exception relief from the provisions of 10 CFR 211.67, the Entitlements Program, granted to Mohawk Petroleum Corporation during the fiscal year ending December 31, 1977. In this Decision and Order, the DOE found that Mohawk received an amount of relief less than the amount which the firm should have received under the Delta standards. However, the DOE determined that no additional relief should be granted to Mohawk because the firm was acquired by Getty Refining and Marketing Company in January 1980, and has become a part of Getty which is not a small and independent refiner, and is not eligible for exception relief.

Plateau, Inc., Washington, D.C.: BEX–0135 crude oil

On December 16, 1980, the Department of Energy issued a Decision and Order to Plateau, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 16, 1980.

Southland Oil Company, Jackson, Mississippi: BEX–0141 crude oil

On December 17, 1980, the DOE issued a Decision and Order to Southland Oil Company staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 16, 1980.

Thriftway Company, Washington, D.C.: BEX-0142 crude oil

On December 17, 1980, the DOE issued a Decision and Order to Thriftway Company staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 17, 1980.

Warrior Asphalt Company of Alabama, Washington, D.C.; BEX-0138 crude oil

On December 16, 1980, the DOE issued a Decision and Order to Warrior Asphalt Company of Alabama staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 16, 1980.

Young Refining Corporation, Washington, D.C.; BEX-0140 crude oil

On December 17, 1980, the DOE issued a Decision and Order to Young Refining Corporation staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on December 17, 1980.

Temporary Exception

The following Application for Temporary Exception was denied on the grounds that the applicant had failed to make a compelling showing that temporary exception relief was necessary to prevent an irreparable injury:

Company Name, Case No., and Location

Kerr-McGee Corp., BEL-1561, Washington, D.C.

Protective Orders

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Case No., and Location

Energy Cooperative, Inc., Standard Oil Co. (IN), BEJ-0164, Washington, D.C.

Petitions involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be denied.

Company Name, Case No., and Location

Ivr's Service Center, DXE-8111, Bossier, La.
Nuccio, S. and Gebhardt, W., DEE-7408, Chicago, Il.
Sammy's Mini-Mart, DEO-0658, Challis, Id.

Dimissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Alochol Fuels, Inc., BEE-1030
Allen's Oil Company, Inc., BEE-1554
Balco Oil Company, Inc., BEE-0473
Brain McMahon, DEX-5816
D & J Oil Company, DES-0151
Deblois Oil Company, BEE-1379
Hall Oil Company, DEE-3059
Highway Petroleum Sales, Inc., DES-5815
Johnny' Petroleum Products, BEE-1540
Lary David Hankins, BFA-0526
Minnesota Attorney General, BFA-0550
Power Test Petroleum Distributors, DST-7481; DES-7481
Shephard Oil Company, BEE-0831
Simmons Oil Company, DEE-4497
Stephen M. Shaw, BFA-0545; BFA-0547
Steph M. Shaw, BFA-0540; BFA-0541; BFA-0542

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 2, 1981.

[FR Doc. 81-4342 Filed 2-5-81; 8:45 am]

BILLING CODE 6450-81-M

Federal Energy Regulatory Commission

[Docket No. RM79-34 and Docket No. ST81-79, et seq.]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Mississippi River Transmission Corp., et al.; Self-Implementing Transactions

January 30, 1981.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested person may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No. and transporter/seller		Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (cents per 1,000 ft [3])
ST81-79	Mississippi River Transmission Corp	11/17/80	G		
ST81-80	Louisiana Intrastate Gas Corp	11/24/80	C	4/23/81	20.00
ST81-81	Trunkline Gas Co	11/26/80	G		
ST81-82	Mountain Fuel Supply Co	11/26/80	G		
ST81-83	Columbia Gas Transmission Corp	11/26/80	B		
ST81-84	Northern Natural Gas Co	11/28/80	B		
ST81-85	Northern Natural Gas Co	12/01/80	B		
ST81-86	Tennessee Gas Pipeline Co	11/25/80	B		

Docket No. and transporter/seller	Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (cents per 1,000 ft³)
ST81-87 United Gas Pipe Line Co	12/02/80	B		
ST81-88 United Gas Pipe Line Co	12/02/80	G		
ST81-89 Natural Gas Pipeline Co. of America	12/01/80	B		
ST81-90 Natural Gas Pipeline Co. of America	12/04/80	G		
ST81-91 Rig Sandy Gas Corp	12/03/80	C		
ST81-92 Michigan Consolidated Gas Co	12/05/80	G		
ST81-93 Northwest Pipeline Corp	12/04/80	G		
ST81-94 Consolidated Gas Supply Corp	12/04/80	G		
ST81-95 Delhi Gas Pipeline Corp	12/08/80	C		
ST81-96 Tennessee Gas Pipeline Co	12/08/80	G		
ST81-97 Tennessee Gas Pipeline Co	12/08/80	B		
ST81-98 Tennessee Gas Pipeline Co	12/08/80	G		
ST81-99 Tennessee Gas Pipeline Co	12/08/80	G		
ST81-100 Northern Natural Gas Co	12/05/80	B		
ST81-101 National Fuel Gas Supply Corp	12/03/80	B		
ST81-102 United Texas Transmission Co	12/09/80	C		
ST81-103 Florida Gas Transmission Co	12/08/80	G		
ST81-104 Tennessee Gas Pipeline Co	12/10/80	G		
ST81-105 Producer's Gas Co	12/12/80	D		
ST81-106 Producer's Gas Co	12/12/80	C	5/11/81	34.50
ST81-107 Cities Service Gas Co	12/12/80	G		
ST81-108 Tennessee Gas Pipeline Co	12/15/80	G		
ST81-109 Transcontinental Gas Pipe Line Corp	12/08/80	G		
ST81-110 Transcontinental Gas Pipe Line Corp	12/08/80	G		
ST81-111 Transcontinental Gas Pipe Line Corp	12/08/80	B		
ST81-112 Transcontinental Gas Pipe Line Corp	12/08/80	G		
ST81-113 Tejas Gas Corp	12/17/80	C	5/16/81	12.00
ST81-114 Transcontinental Gas Pipe Line Corp	12/15/80	G		
ST81-115 El Paso Natural Gas Co	12/16/80	G		
ST81-116 Consolidated System LNG Co	12/22/80	G		
ST81-117 United Gas Pipe Line Co	12/22/80	G		
ST81-118 Panhandle Eastern Pipe Line Co	12/22/80	F		
ST81-119 Louisiana Gas Intrastate, Inc	12/24/80	C		

[1] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 81-4288 Filed 2-5-81; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

(ER-FRL-1748-1)

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104); US Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISs) 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 on Environmental Quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of January 26, 1981 to January 30, 1981.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from February 6, 1981 and will end on March 23, 1981. The 30-day review period for final EIS's as calculated from February 6, 1981 will end on March 9, 1981.

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 source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of January 26, 1981 to January 30, 1981. 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. All additional information relating to EIS's such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245-3006.

Dated: February 3, 1981.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

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.

Soil Conservation Service

Draft

MOSS NECK WATERSHED FLOOD PROTECTION, Robeson County, N.C., January 28: Proposed is a flood protection plan for the Moss Creek Watershed in Robeson County, North Carolina. Planned measures include accelerated land treatment, 18.1 miles of channel excavation, and 0.6 mile of channel restoration. Land treatment measures include the placement of tile and surface drains. In addition to no action four other alternatives are considered. The cooperating agencies are the Forest Service and the State of North Carolina. (EIS Order No. 810083.)

NEWTON-HOFFMAN WATERSHED, FLOOD PROTECTION, Chemung and Schuyler Counties, N.Y., January 29: Proposed is a watershed protection project for the Newton-Hoffman Creeks in Chemung and Schuyler Counties, New York. The protection measures would involve: (1) Construction of the Latta Brook debris basin, (2) floodway development consisting of a dike and two drop structures, and (3) channel improvements on Newton, Diven and Hoffman Creeks. The alternatives consider: (1) Construction of four retarding structures, (2) no action, and (3) nonstructural measures. (EIS Order No. 810086.)

U.S. ARMY

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn.: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Corps of Engineers

Draft

LABETTE CREEK LOCAL FLOOD PROTECTION, PARSONS, Labette County, Kans., January 29: Proposed is a local flood control project for poritons of Labette Creek in Parsons, Labette County, Kansas. The preferred alternative would involve: (1) Raising the existing levee and extending it upstream to 22nd Street and downstream to Little Labette Creek, (2) clearance of portions of the channel, (3) removal of a flow area construction, and (4) concrete lining of the channel under the North Avenue. The

cooperating agency is the FWS. (Tulsa District.) (EIS Order No. 810089.)

EXTENSION: Irondequoit Bay Navigation Improvements, NY, published **Federal Register** December 31, 1980—review extended from March 30, 1981 to February 13, 1981. (800980.)

DEPARTMENT OF DEFENSE

Contact: Col. Kenneth Halleran, 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.

Army

Draft

FORT BENNING ONGOING SITING AND MISSION ACTIVITIES, Muscogee and Chattahoochee Counties, GA., January 29: Proposed is the continuance of the ongoing siting and mission activities at Fort Benning in Muscogee and Chattahoochee Counties, Georgia. The primary missions involved are the training of combat infantry troops, leaders and reserve component forces. The alternatives considered are: (1) Maintenance of status quo, (2) total closure, and (3) mission change. (EIS (Oder No. 810087.)

EXTENSION: Aleutian Islands and Lower Alaskan Peninsula Debris Clean-up, AK published FR October 17, 1980—review extended from December 1, 1980 to March 31, 1981. (No. 800786.)

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377–2462.

Nat'l Oceanic and Atmospheric Admin.

Draft Supplement

HIGH SEAS SALMON FISHERY FMP (DS–2), Pacific Ocean, Alaska, January 30: This statement supplements a final EIS, No. 790076, filed 1–19–79 concerning the fishery management plan for the high seas salmon fishery in the Pacific Ocean off the coast of Alaska. Proposed is an amendment to the FMP which would involve the following: (1) Reduction of the acceptable biological catch and optimum yield range by 15% and use the upper limit of the OY range as a harvest ceiling, (2) reduction of the Chinook fishing season, and (3) limitation of hand troll vessels to two lines and qurdies or four sport lines. (EIS Order No. 810091.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600.

Draft Supplement

MULTIFAMILY AND COMMERCIAL BUILDINGS, RCSP (DS–1), Programmatic, January 30: This statement supplements final EIS, No. 791153, filed 11–13–79 concerning the residential conservation service program. Proposed is the expansion of that program to encompass multifamily and commercial buildings and the implementation of the commercial and apartment conservation service program. This program would extend energy auditing services to residential buildings with five units or more and small commercial buildings using 4,000 kW hours or less of electricity or 1,000 therms or less of natural gas or equivalent fuel on an average monthly basis. (DOE/EIS–0050–DS.) (EIS Order No. 810094.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Daniel Sullivan, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007, (212) 264–1858.

Draft

UPPER ROCKAWAY RIVER BASIN, FACILITY PLAN, Morris County, N.J., January 28: Proposed is a facility plan for the construction of sewage treatment facilities within the Upper Rockaway River Basin, Morris County, N.J. The recommended plan includes: (1) local collection and treatment in certain areas, (2) creation of two septic management districts, (3) construction of three branch interceptors with connection to Rockaway Valley Regional Sewerage Authority (RVRSA) plant, and (4) no action for various areas within the RVRSA. (EIS Order No. 810084.)

EXTENSION: The review period for the above EIS has been extended until April 10, 1981 (No. 810084).

Contact: Mr. Eugene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, (312) 353–2157.

CORRECTION: The following EIS was published in the January 23, 1981 FR with an incorrect description. Below is a correct description of the project. The review period will terminate on February 23, 1981.

Final

GREEN LAKES WASTE TREATMENT SYSTEMS, CASE STUDY No. 2, Kandiyohi County, Minn., January 16: Proposed is a wastewater treatment plan for the Green Lake Sanitary Sewer and Water District located in Kandiyohi County, Minn. Seven alternatives have been developed which evaluate alternative collection systems (pressure sewers), treatment techniques (land application), individual and multifamily septic systems (cluster systems), and water conservation. The Green Lake study area comprises about 24 square miles of fields, farms, wetlands, and residential/commercial lake-side development. Comments made by: DOI, DOT, State and local agencies; individuals and businesses. (EIS Order No. 810036.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Envirinmental Affairs Division, General Services Administration, 18th and F Streets, NW. Washington, D.C. 20405, (202) 566–1416.

Draft

POST OFFICE AND COURTHOUSE RENOVATION, CHARLESTON, Charleston County, S.C., January 23: Proposed is the renovation of and annex construction to the proposed is the renovation of and annex construction to the U.S. Post Office and Courthouse in the city and county of Charleston, S.C. The annex will contain 25,270 square feet of occupiable space. The alternatives consider: (1) no action, (2) construction of annex, (3) relocation of post office, (4) relocation of courthouse, (5) leasing of existing space, (6) acquistion of adjacent building, and (7) use of existing government-owned buildings. (ESC–81001). (EIS Order No. 810020.)

NOTATION: The above EIS was originally filed in the January 16, 1981 **Federal Register** and retracted in the January 30, 1981 **Federal Register**. The EIS was refiled as of January 23, 1981 and should have appeared in the January 30, 1981 **Federal Register.** The review is calculated from January 30, 1981 and will terminate on March 12, 1981 (No. 810020).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director; Office of Environmental Quality; Room 7274; Department of Housing and Urban Development; 451 7th Street SW., Washington, D.C. 20410; (202) 755–6300.

Draft

San Antonio Areawide Study, Bexar County, Tex., January 27. Proposed is an areawide study for the San Antonio north-northwest growth corridor in san antonio, Bexar County, Texas. This study will allow HUD to accept future housing project applications without applying the automatic EIS threshold thereby reducing the HUD processing time of project applications. The study encompasses an area of 367 square miles. The cooperating agencies are the EPA, COE, VA and the State of Texas. (HUD–R06–EIS–81–1D.) (EIS order No. 810080.)

The Meadows Development, Mortgage Insurance, Thurston County, Wash., January 26. Proposed is the issuance of HUD home mortgage insurance for the Meadows Residential Development in Thurston County, Washington. The development would encompass 247 acres and consist of: (1) 474 single family units, (2) 156 duplex units, (3) 124 multi-family units, (4) an 11-acre school site, and (5) a 5.2-acre convenience center. (HUD–R10–EIS–80–2D.) (EIS Order No. 810075.)

Final

Westgate Heights Subdivision, Albuquerque, Bernalillo County, N. Mex., January 28. Proposed is the issuance of HUD home mortgage insurance for the Westgate Heights subdivision, Albuquerque, Bernalillo County, New Mexico. When completed, the subdivision, which encompasses approximately 904 acres, is expected to consist of single family, multi-family, and apartment housing units, as well as school, church, commercial, park and recreation facilities. (HUD–R06–EIS–80–13F.) Comments made by: COE, EPA, VA, AHP, DOI, DOE, DOT, USAF, State and local agencies. (EIS Order No. 810085.)

Fairfield Subdivision Mortgage Insurance, Tarrant County, Tex., January 28. Proposed is the issuance of HUD home mortgage insurance for the Fairfield addition subdivision in Arlington, Tarrant County, Texas. When completed the subdivision will consist of 1,363 single family homes on 350 acres of the 510 acre site. The development

will also include a 10-acre school site and a 12-acre park site. (HUD–R06–EIS–81–1F.) Comments made by: EPA, VA, State agencies. (EIS Order No. 810093.)

CORRECTION: The following EIS should have appeared in the January 16, 1981 **Federal Register**. Therefore the comment period will be calculated from January 16, 1981 and will terminate on March 2, 1981. (No. 810095.)

Draft

Windmill Meadows/Lynn Creek Estates Subdivision, Tarrent County, Tex. January 6. Proposed is the issuance of HUD home mortgage insurance for the Lynn Creek Estates and Windmill Meadows subdivisions in Arlington, Tarrent County, Texas. The community consists of 1,328 acres which will consist of 3,788 single family units, 816 medium density units, and 445 high density apartment units. Within the development 111.6 acres would be preserved as open space and 104.2 acres devoted to commercial and retail purposes. (HUD–R06–EIS–80–11D.) (EIS Order No. 810095.)

SECTION 104(H). The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

GENERAL MOTORS ASSEMBLY PLANT RELOCATION, UDAG, Wyandotte County, January 30. Proposed is the awarding of a UDAG to fund public improvements for the proposed site of the new General Motors assembly plant in Kansas City, Wyandotte County, Kansas. Public improvements would consist of the widening and improvement of streets, construction of new storm and sanitary sewer lines, and construction of a fire station. The alternatives consider: (1) No action, (2) postponement, (3) renovation/expansion of the existing facility, (4) acquisition and renovation of the existing industrial facility, and (5) relocation outside the city. (EIS Order No. 810090.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Office of Surface Mining.

Final

ROJO CABALLOS MINE RECLAMATION PLAN, Campbell County, Wyo., January 27. Proposed is the approval of a mining and reclamation plan for the Rojo Caballos Mine in Campbell County, Wyoming. The mine plan area encompasses 5,815 acres. Approximately 317.5 million short tons of low-sulfur subbituminous coal would be extracted during a 24-year period. The alternatives include: (1) No action, (2) approve plan but begin mining at a later date, (3) disapproval of plans, and (4) approve plan with included stipulations. The cooperating agency is the USGS. (OSM–EIS–3.) Comments made by: DOI, HHS, HUD, EPA, AHP, State and local agencies, groups, individuals and businesses. (EIS Order No. 810074.)

WAIVER: The review period for the above EIS has been granted a partial waiver—review will end on February 25, 1981. (#810074.)

NATIONAL PARK SERVICE

Draft

DOMINQUEZ-ESCALANTE NATIONAL HISTORIC TRAIL, several counties, January 28. Proposed is the designation of the Dominquez-Escalante Trail located in New Mexico, Colorado, Utah and Arizona, as a component of the National Trails System, within the category of National Historic Trails. The trail extends for 1,794 miles. Also recommended is the marking and interpretation of the route along the highway and the development of trail segments for public use. The alternatives consider: (1) No action, (2) designation of the entire trail excluding marking or development, and (3) designation of the entire trail with markings excluding development. (DES–81–3.) (EIS order No. 810082.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Daniel R. Muller, Assistant Director for Environmental Technology, Nuclear Regulatory Commission, Room Regulatory Commission, Room P–202, Washington, D.C. 20555, (301) 492–7017.

Draft

DECOMMISSIONING OF NUCLEAR FACILITIES, Programatic, January 29: This generic statement proposes a reevaluation of regulatory requirements concerning the decommissioning of commercial nuclear facilities. Considered is the decommissioning of pressurized water reactors, boiling water reactors, fuel reprocessing plants, mixed oxide fuel fabrication plants, uranium hexafluoride conversion plants, uranium spent fuel fabrication plants, independent spent fuel storage intallations, nuclear energy centers, and facilities for handling non-fuel-cycle byproduct, source and special nuclear materials. (NUREG–0586.) (EIS Order No. 810088.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

US 50/301, I–95 TO VICINITY OF SOUTH RIVER BRIDGE, Anne Arundel and Prince Georges Counties, Md., January 26: Proposed is the improvement of US 50/301 from I–95 to the vicinity of the South River bridge in Anne Arundel and Prince Georges County, Maryland. Improvement of the facility would complete a link of proposed I–95. Four alternatives are considered. The cooperating agency is the State of Maryland. (FHWA–MD–EIS–81–01–D.) (EIS Order No. 810077.)

EXTENSION: The review period for the above EIS has been extended until April 3, 1981. (No. 810077.)

Final

AUGUSTA RAILROAD DEMONSTRATION PROJECT, Richmond and Columbia Counties, Ga., and Aiken County, S.C., January 28: proposed is a railroad demonstration project for the Augusta metropolitan area which encompasses all or a portion of Richmond and Columbia counties, Georgia, and the city of North Augusta and Aiken County, South Carolina. This statement concerns only one of the three rail systems serving the area. The preferred alternative would remove interchange movements from downtown Augusta and retain the existing main line west of the central area. The other alternatives considered are: (1) limited build, (2) no action, and (3) postponement. The cooperating agency is the State of Georgia. (FHWA–GA–EIS–78–02–F.) Comments made by: USDA, HUD, DOI, HEW, EPA, COE, DOT, FEA, State and local agencies, businesses. (EIS Order No. 810092.)

Final

I–510 SPUR, GULF, OUTLET BRIDGE TO I–10, Orleans County, La., January 27: Proposed is the construction of the Gulf Outlet Bridge interstate to be known as I–510, located in Orleans Parish, Louisiana. The proposed action for moving people and freight is a 2.5 mile, four-lane controlled-access highway beginning at the north end of the existing Mississippi River Gulf Outlet Bridge and ending at I–10. A six-lane roadway is provided from I–10 to Lake Forest Boulevard to accommodate weaving movements. The alternatives consider no-build, mass transit, and location alternatives. (FHWA–LA–EIS–78–02–F.) (EIS Order No. 810051.)

I–97, BALTIMORE/ANNAPOLIS CORRIDOR STUDY, Anne Arundel County, Md., January 28: Proposed are various improvement for the Baltimore/Annapolis transportation corridor form the Baltimore Beltway to Annapolis in Anne Arundel County, Maryland. The improvements include: (1) Upgrading portions of the Baltimore Beltway, MD–3, MD–32 and US 50/301 to interstate standards; (2) construction of 6 miles of new highway to complete the link to US 50/301; (3) minor improvements for MD–2 and MD–100; (4) 9 miles of HOV lanes; (5) 4 park-and-ride lots; and (6) 3 carpool lots. The cooperating agency is the State of Maryland. (FHWA–MD–EIS–78–02–F.) Comments made by: DOC, COE, DOI, EPA, DOT, State and local agencies, individuals. (EIS Order No. 810079.)

Final

I–481 EXTENSION, COLLAMER TO BEAR ROAD, Onondaga County N.Y., January 27: Proposed is the extension of I–481 from the Collamer/New York State Thruway Road/I–81 interchange to the Bear Road/I–81 interchange in Onondaga County, New York. The facility would be a four lane divided expressway extending for 5.4 miles. Also to be completed are the ramps at the Bear Road/I–81 interchange. The cooperating agency is the State of New York. (FHWA–NY–EIS–76–01–F.) Comments made by: USDA, HEW, DOI, FPC, EPA, DOT, COE, State and local agencies. (EIS Order No. 810081.)

ROUTE 234 BYPASS CONSTRUCTION, MANASSAS, Prince William County, Va., January 26: Proposed is the construction of a bypass facility around the city of Manassas in Prince William County, Virginia for existing Route 234. The corridor extends from the intersection of Route 619 at Independent Hill on the south to the intersection of US 15 at Woolsey. The project length would vary from 14.76 miles to 21.77 miles, depending upon which alternative is selected. All bypass alternatives are on the west side of the city of Manassas. The cooperating agency is the State of Virginia. (FHWA-VA-EIS-79-03-F.) Comments made by: EPA, DOT, DOI, COE, DOC, HUD, State and local agencies, businesses. (EIS Order No. 810078.)

Final

I-78 COMPLETION, I-78 TO BALTUSROL ROAD, Somerset and Union Counties, N.J., January 29: Proposed is the completion of I-78 from the present termini of I-78 in the vicinity of Plainfield Avenue in Berkeley Heights to the vicinity of Baltusrol Road in Springfield and within the counties of Sumerset and Union, New Jersey. The facility would be a six-lane, controlled access freeway extending for 5.5 miles. In addition to no build, eight alternatives are considered. (FHWA-NJ-EIS-76-02-F) Comments made by: USDA, DOC, DOI, HUD, DOT, EPA, COE, State and Local Agencies. (EIS Order No. 810018.)

Notation: The above EIS was originally filed in the January 16, 1981 FR and retracted in the January 30, 1981 FR. The EIS has been refiled as of January 29, 1981. (No. 810018).

Draft supplement

US 395, WINTERS' RANCH TO SOUTH VIRGINIA ST./I-580, Washoe County, Nev., January 26: This statement supplements a final EIS, No. 770379, filed 3-23-77. Proposed is the improvement of US 395 from Winters' Ranch to the South Virginia Street/I-580 interchange in Reno, Washoe County, Nevada. The improved segment would extend for 16 miles. Five alternatives are considered. Two alternatives follow the existing alignment while two alternative alignments transverse the lower slopes of the Carson Range. No action is also considered. (FHWA-NV-EIS-76-02-DS01.) (EIS Order No. 810076).

[FR Doc. 81-4432 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-37-M

[OPTS-51157A; TSH-FRL 1748-6]

Benzenamine N-(1-Methylhexylidene)-N'-(1-Methylbutylidene)-4,4'-Methylene-Bis; Premanufacture Notice; Voluntary Suspension of the Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. During that 90-day period EPA evaluates the potential health and environmental effects of the PMN chemical. This notice announces a voluntary suspension of the review period.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460 (202-426-3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (14 U.S.C. 2504)] requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. After receipt, EPA has 90 days to review a PMN. Under section 5(c), EPA, for good cause, may extend the review period for up to an additional 90 days. Where EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

EPA issued notice of receipt of the PMN published in the **Federal Register** of November 4, 1980 (45 FR 73127). The PMN was submitted by a company which claimed confidentiality of its identity as provided for in section 14 of TSCA. The PMN was for the manufacture of the new substance benzenamine [*N*-(1methylhexylidene)-*N'*-(1-methylbutylidene)-4,4'-methylene-bis (PMN 80-264).

The conclusion of the normal 90-day review period for the PMN would have been December 25, 1980. However the manufacturer requested that the premanufacture review period for the PMN be temporarily susended as of December 24, 1980.

During the review period, the manufacturer met with EPA to discuss possible control options that would be implemented to protect workers both in manufacturing and processing operations. The Agency and the company are negotiating these control options at the present time. The manufacturer requested a suspension of the review period in order to provide additional time for these negotiations. Without such a suspension, the Agency would have been forced to formally extend the review period through issuance of a notice under section 5(c) no later than December 25, 1980. The Agency and the manufacturer agree that such a rigid and limited time schedule would not have been advantageous to the successful negotiation of mutually acceptable controls. Accordingly, the review period has been suspended indefinitely to allow negotiations to proceed.

Dated: January 28, 1981.

Edward A. Klein,

Director, Chemical Control Division.

[FR Doc. 81-4363 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51195; TSH-FRL 1749-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by February 24, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St. SW., Washington, D.C. 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St. SW., Washington, D.C. 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979..

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before February 24, 1981, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51195]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 28, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80–331

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 9, 1981.

Manufacturer's Identity. Rust-oleum Corporation, 11 Hawthorne Parkway, Vernon Hills, IL 60090.

Specific Chemical Identity. Manufacturer claimed confidential business information. Generic name provided: Methacrylic/fatty acid adduct.

Use. Vehicle for use in coatings manufacture.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. Claimed confidential business information.

Exposure.

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration	
		Hours/day	Days/year	Average	Peak
Manufacture: Skin and inhalation		8	354		
Processing: Skin and inhalation	100	8	354		

Environmental Release/Disposal. No data were submitted.

PMN 80–332

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 9, 1981.

Manufacturer's Identity. Rust-oleum Corporation, 11 Hawthorne Parkway, Vernon Hills, IL 60090.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Soya fatty ester.

Use. Ester for use in the manufacture of a resin used in coatings.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Non-volatile matter—90 percent. Viscosity—A–D (Gardner-Holdt). Weight per gallon—7.8 lb.

Toxicity Data. Claimed confidential business information.

Exposure.

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration	
		Hours/day	Days/year	Average	Peak
Manufacture: Skin and inhalation	20	8	354		
Processing: Skin and inhalation	30	8	354		

Environmental Release/Disposal. No data were submitted.

[FR Doc. 81-4367 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51214; TSH-FRL 1748-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80-377, February 23, 1981.
PMN 80-383, February 27, 1981.
PMN 81-3, March 3, 1981.

ADDRESS: Written comments to: Documents Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning permanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(b)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposd restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51214]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 28, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-377

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 23, 1981.

Manufacturer's Identity. United States Steel Corporation Chemicals Division, 1605 West Elizabeth Avenue, Linden, NJ 07036.

Specific Chemical Identity. Polymer of: 1,2-ethanediol; 2,5-furandione; 1,3-isobenzofurandione; 1,2-propanediol; and 3a,4,7, 7a-tetrahydro-4,7-methano-1*H*-indene.

Use. Claimed confidential business information.

Production Estimates

	(Kilograms per year)	
	Minimum	Maximum
1st year	500,000	1,000,000
2d year	750,000	2,000,000
3d year	1,000,000	4,000,000

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. The manufacturer states that there will be a release into the atmosphere of the PMN substance 24 hr/da, 250 da/yr and that disposal of any waste will be by incineration using a thermal oxidizer.

PMN 80-383

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 29, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Annual sales—$1,000,000-$9,999,999.

Manufacturing site—Northeast U.S.

Standard Industrial Classification Code—284.

Specific Chemical Identity. Ammonium dilinoleate.

Use. Leather manufacture.

Production Estimates

	(Kilograms per year)	
	Minimum	Maximum
1981	9,100	27,300
1982	11,400	34,100
1983	11,400	34,100

Physical/Chemical Properties. No data were submitted. The manufacturer states that the volatility of the new substance is very low.

Toxicity Data. No data were submitted. The manufacturer states that data on related chemicals indicate the new substance should present minimal risk when handled according to proper industrial practices and good personal hygiene.

Exposure. The manufacturer states that manufacture of the new substance will expose three workers by means of inhalation for 8 hr/da, 17 da/yr and that the level of airborne exposure will be extremely low.

Environmental Release/Disposal. The manufacturer states that total release to air, land, and water may range from less than 20 to 1,000 kg/yr, 1-8 hr/da, 11-17; that wastes are processed through a sediment tank before release into publicly owned treatment works (POTW) at a rate of 598 gallons/da, 11 da/yr.

PMN 81-3

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. April 2, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Methyl, bis (hydroxypropyl) tallowalkyl ammonium methyl sulfate.

Use. Claimed confidential business information.

Production Estimates

	(Kilograms per year)	
	Minimum	Maximum
1981	10,000	500,000
1982	10,000	1,000,000
1983	10,000	2,000,000

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data. Toxicity, skin and eye irritation have not yet been completed.

Exposure. The manufacturer states that because the new substance is manufactured and processed in a closed system, no exposure will occur. The submitter also states that at a site controlled by a customer the new substance will normally be processed in a closed system, with workers directly exposed when collecting samples for quality control testing.

Environmental Release/Disposal. The manufacturer states that less than 30 kg/yr of the new substance will be released into the air, land, and water at a site controlled by the submitter. The submitter also states that at a customer's site, less than 10 to 100 kg/yr of the new substance will be released into the water of POTW.

[FR Doc. 81-4365 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51215; TSH-FRL 1749-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of four PMN's and provides a summary of each.

DATES: Written comments by:

PMN 80-376—February 25, 1981.

PMN 80-380, PMN 80-381—February 27, 1981.

PMN 80-2—March 3, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances complied by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5 (d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the

company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "Dates", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51215]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 29, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-376

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 23, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—In excess of $500 million.

Manufacturing site—East-North Central U.S.

Standard Industrial Classification Code—2851.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Urethane prepolymer.

Use. Claimed confidential business information. Generic use information provided: The PMN substance will be used in an open use that will release more than 50 but less than 5,000 kilograms (kg) to the environment per year; that use may involve potential exposure of non-chemical industry employees.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Non-volatile—100%.

Molecular weight (estimate)—750-1,000.

Equivalent weight—325.

Glass transition temperature—34° C.

Viscosity—8 poise at 150° C.

% NCO groups—0.8% maximum.

Solubility:

Water—Insoluble.

Aromatic hydrocarbons—Soluble.

Ketones—Soluble.

Ester solvents—Soluble.

Aliphatic hydrocarbons—Partially soluble.

Toxicity Data. No data were submitted.

Exposure. Manufacture. The submitter states that manufacture of the new substance will be carried out in a closed system. The only worker exposure possible would be incidental skin contact, accidental spillage, and during infrequent plant shutdowns for general maintenance and cleaning.

Processing workers may be exposed to the new chemical substance during filtration, solidification, flaking, and bagging.

Use. Workers will be exposed to the solid prepolymer and to the cured polymer. Exposure includes accidental skin contact, eye contact, and nose and mouth contact.

Environmental Release/Disposal. The manufacturer states that vapors from the reactor are incinerated with no release of the PMN substance. Insolubles are transported to commercial sites for legal landfill disposal as is also the product dust generated during flaking and bagging.

PMN 80-380

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 29, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Northeast U.S.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 4-Substituted (Substituted benzene).

Use. Intermediate.

Production Estimates.

	Minimum (Kg/yr)	Maximum (Kg/yr)	
	In house or vendor	In house	Vendor
1st	10	25	1,000
2d year	10	25	1,000
3d year	10	25	1,000

The manufacturer states that contract manufacture by another company is planned for annual production volumes above 25 kg and for long-term supply.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. The submitter states that a total of 20 workers on all shifts may be exposed to the new substance dermally and by inhalation for 250 da/yr during manufacture and processing at average and peak concentrations of 0-1 mg/m^3.

Environmental Release/Disposal. The manufacturer states that all liquid and solid wastes, except those wastewater streams approved for discharge into the publicly owned treatment works (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

PMN 80-381

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 29, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Annual sales—Over $500,000,000.

Manufacturing site—Northeast U.S.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 1-Substituted-4-(substituted heteromonocyclic)benzene.

Use. Claimed confidential business information. The manufacturer states that the new substance will be used in a way that will release between 50 to 5,000 kg to the environment per year at the maximum production rate.

Production Estimates.

	Minimum (Kg/yr)	Maximum (kg/yr)	
	In-house or vendor	In-house	Vendor
1st year	10	25	1,000
2d year	10	25	1,000
3d year	10	25	1,000

The submitter states that contract manufacture by another company is planned for annual production volumes above 25 kg and for long-term supply.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure.

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration (mg/m ^{3})	
		Hours/day	Days/year	Average	Peak
Manufacture: Inhalation and dermal	10	8	250	0-1	0-1
Processing (total sites): Inhalation and dermal	10-150	8-24	250-335	0-1	0-1
Disposal: Dermal and inhalation	4	24	335	0-1	0-1

Environmental Release/Disposal. The manufacturer states that between 50 and 5,000 kg of the PMN substance will be released to the environment per year at the maximum production rate. Industrial releases to the environment will be to a POTW and/or chemical landfill.

PMN 81-2

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. April 2, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—In excess of $500 million.

Manufacturing site—East-North Central U.S.

Standard Industrial Classification Code—2851.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Water reducible siliconized alkyd resin.

Use. Claimed confidential business information. Generic use information provided: The PMN substance will be used in an open use that will release more than 5,000 but less than 50,000 kg to the environment per year; that use will involve exposure of non-chemical industrial employees.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Nonvolatile by weight—75%.

Weight/gallon—9.02 lb.

Molecular weight (estimate)—1,500-3,000.

Acid value—On solids—43-48.

On solution—32-36.

Flash point—155°F.

Boiling range—Above 169°C.

Viscosity—Z4-Z6.

Toxicity Data. No data were submitted.

Exposure. No data were submitted. The manufacturer states that because the new substance is manufactured in a closed system, dermal exposure would occur only during sampling, transfer out of the system, or during accidental spillage.

Environmental Release/Disposal. No data were submitted. The manufacturer states that the majority of the new substance will be disposed of at commercial, legal landfill sites, that all vapors from the reactor and thinning tank will be incinerated, and that condensation water is collected, adjusted to required pH, and legally routed to a sewer system.

[FR Doc. 81-4396 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51221; TSH FRC 1749-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of three PMN's and provides a summary of each.

DATE: Written comments by March 14, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the

effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(d). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identify, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before March 14, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51221]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 30, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-9

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. April 13, 1981.

Manufacturer's Identity. Dow Corning Corporation, P.O. Box 1767, 2200 W. Salzburg Road, Midland, MI 48640.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Silylated phosphonate.

Use. Claimed confidential business information. Generic use information provided: Chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH—6.
Viscosity—10 cps.
Solubility in water—Soluble.
Refractive index—1.35-1.45.
Color—Amber.
Specific gravity—1.1-1.2.
Nonvolatiles (3 hr at 135°C)—>60%.
Flash point (closed cup)—77°C.
Molecular weight—272.

Toxicity Data

Acute oral toxicity (rat)—LD_{50}>5,000 mg/kg.

Acute dermal toxicity (rabbit)—LD_{50}>2,000 mg/kg.

Eye irritation (rabbit)—Not an eye irritant.

Skin irritation (rabbit)—Not a skin irrjtant.

Ames *Salmonella* Assay—Non-mutagenic.

Fish 96-hour LC_{50}—>100 ppm.

Daphnia 48-hour LC_{50}—>100 ppm.

Exposure. The manufacturer states that because the new substance is manufactured in a closed system, exposure will be limited to one worker during sampling and drumming off.

Environmental Release/Disposal. The manufacturer states that essentially no release of the new chemical substance to the environment is anticipated.

PMN 81-10

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. April 13, 1981.

Manufacturer's Identity. Dow Corning Corporation, PO MBox 1767, 2200 W. Salzburg Road, Midland, MI 48640.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Sodium salt of silylated phosphonate.

Use. Claimed confidential business information. Generic use information provided: Anticoalescing agent.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH—9-11.
Viscosity—75-150.
Solubility in water—Soluble.
Color—Amber.
Specific gravity—1.2-1.3.
Non-volatiles—50%
Flash point (Penske-Martin closed cup)—> 100° F.
Molecular weight (hypothetical average)—952.
Degree of polymerization—4.
(Data above represents values for the substance in water.)

Toxicity Data

Acute oral toxicity (rat)—LD_{50} > 5,000 mg/kg.

Acute dermal toxicity (rabbit)—LD_{50} > 2,000 mg/kg.

Eye irritation (rabbit)—Not an eye irritant.

Skin irritation (rabbit)—Not a skin irritant.

Ames *Salmonella* Assay—Non-mutagenic.

Fish 96-hour LC_{50}—LC_{50} > 100 ppm.

Daphnia 48-hour LC_{50}—LC_{50} > 100 ppm.

Exposure. No data were submitted. The manufacturer states that because the new substance is manufactured in a closed system, exposure will be limited to one worker during sampling and drumming off.

Environmental Release/Disposal. The manufacturer states that no release of

the new chemical substance into the environment is anticipated.

PMN 81-11

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. April 13, 1981.

Manufacturer's Identity. Lilly Industrial Coatings, Inc., 546 W. Abbott Street, Indianapolis, IN 46225.

Specific Chemical Identity. Polymer of: Esterdiol 204; 1,6-hexanediol; neopentyl glycol; trimethylol propane; isophthalic acid; and dibutyl tin oxide.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that the manufacture and use of the new substance at a site controlled by the submitter will dermally expose from 2 to 10 workers for 10 hr/da, 10 to 30 da/yr, at an average concentration of 10–100 mg/m^3.

The use of the new substance at a site not controlled by the submitter will dermally expose three workers for 10 hr/da, 10 da/yr, at an average concentration of 10–100 mg/m^3.

Environmental Release/Disposal. The manufacturer states that there is no expected release of the new substance into the air, land, or water.

[FR Doc. 81-4308 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51210; TSH-FRC 1748-7]

1-Propanaminium, N,N-Dimethyl, N-Ethyl-3-[(1-Oxococoalkyl)Amino]-, Ethylsulfate; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by February 24, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Janet Thompson, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-447A, 401 M St., SW., Washington, D.C. 20460 (202-755-5632).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5 (a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before February 14, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51210]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 28, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-366

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 16, 1981.

Manufacturer's Identity. Jordan Chemical Company, 1830 Columbia Avenue, Folcroft, PA 19032.

Specific Chemical Identity. 1-Propanaminium, *N,N*-dimethyl, *N*-ethyl-3-[(1-oxococoalkyl)amino]-,ethylsulfate.

Use. Detergent, emulsifier, wetting agent.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance	Slightly viscous amber liquid.
Percent Active ingredient	75.
Percent Isopropanol	10.
Percent Water	15.
Specific gravity	1.0 (8.33 lb/gal)
Flash point	125.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that a maximum of one employee may be exposed to the PMN substance, 2 hr/da, 4-6 da/yr during drumming operations.

Environmental Release/Disposal. The manufacturer states that since the manufacturing equipment is not open, there will be no release of PMN substance to the environment and no disposal will be necessary.

[FR Doc. 81-4364 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51211; TSH-FRL 1748-5]

Vegetable Fatty Acid Modified Polyester; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by February 26, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Denise Devoe, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm E-221, 401 M St., SW., Washington, DC 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before February 26, 1981, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51211]" and the PMN number. Comments received may be seen in the above office between 8:00

a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: January 28, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-367

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. March 18, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational information provided:

Annual sales—Between $100 million and $499,999,999.

Manufacturing site—Northwestern U.S.

Standard Industrial Classification Code—285, "Paints, Varnish, Lacquers, Enamels, Allied Products".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Vegetable fatty acid modified polyester.

Use. Resin for low volatile organic content coatings.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1981	10,000	50,000
1982	25,000	100,000
1983	50,000	200,000

Physical/Chemical Properties.
Color—12 maximum (Gardner Holdt).
Vicosity—Z-5 to Z-6 (Gardner Holdt).
Acid value—38-40 (Solid basis).
Hydroxyl value—15-20 (Solid basis).
Weight/gallon—8.9 lb.
Non-volatile by weight—75.0
Vapor pressure (Torr) at:
100°F—6.4
150°F—15.5
200°F—33.0
250°F—64.0
300°F—115.0
350°F—190.0
400°F—310.0
450°F—450.0
500°F—670.0
Viscosity—700,000

Toxicity Data. No data were submitted.

Exposure.

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentration (ppm)	
		Hours/day	Days/years	Average	Peak
Manufacture: Dermal	11	8	18		
Processing: Dermal	12	8	100		
Use: Dermal, inhalation, and eye	30	8	250	>100	>100

Environmental Release/Disposal.

Manufacture and processing, total sites:

Media—Amount/Duration of Chemical Release (kg/yr).

Air—<20. 12-24 hr/da; 18-100 da/yr.

Land—200-2,000.

Water—<20. 12 hr/da; 100 da/yr.

User's site:

Air—10-100. 8 hr/da; 250 da/yr.

Land—10,000.

Water—10-100.

The manufacturer states that solid waste disposal will be by landfill; water of esterification to publicly owned treatment works (POTW) from settling tank.

[FR Doc. 81-4362 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

[A-9-FRL 1747-4]

Mobil Oil Corp.; Issuance of PSD Permit

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Mobil Oil Corporation, EPA project number SJ 78-11.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on November 21, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct eight (8) 50×10^6 BTU/hr steam generators and two (2) 12.6×10^6 BTU/hr heater treaters in Sections 1, 2, and 3 of T29S, R21E, MDB&M, in the Belridge Oil Field, Kern County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: SO_2 at 0.16 lbs./10^6 BTU for the 8 new 50×10^6 BTU/hr steam generators and 2 existing 50×10^6 BTU/hr heater treaters. Allowable emissions of NO_x will be determined at a future date.

Best Available Control Technology (BACT) requirements include: scrubbers with 85% efficiency to control SO_2 emissions for all above-mentioned equipment; and excess oxygen control equipment to limit excess oxygen to no more than 3% in exhaust gases for the 8 new 50×10^6 BTU/hr steam generators to control emissions of NO_x. BACT for NO_x will be determined at a future date.

Modeling to determine the proposed project's impact on ambient air quality has been conducted for NO_x.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by April 7, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105 (415) 556-3450.

Dated: January 29, 1981.

Clyde B. Eller,

Director, Enforcement Division, Region IX.

[FR Doc. 81-4360 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-38-M

[OPTS-50027; TSH-FRL 1748-4]

2-Naphthalenamine; Intent To Remove From the TSCA Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA, in reviewing the chemical substances included on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory, has concluded that the chemical 2-naphthalenamine (Chemical Abstracts Service Registry Number 91-59-8) was incorrectly reported. The Agency intends to remove this substance from the Inventory, and solicits public comments.

DATE: Comments by March 9, 1981.

ADDRESS: Written comments to: Document Control Office (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460 (202-755-8050).

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances.

Environmental Protection Agency, Rm. E-229, 401 M St., SW., Washington, DC 20460. Toll free: (800-424-1404). In Washington, D.C. (202-554-1404).

SUPPLEMENTARY INFORMATION: On April 26, 1980, the EPA received a citizen's petition under section 21 of TSCA (Pub. L. 94-469), requesting the Agency to take action to control the manufacture, importation or processing of the chemical substance 2-naphthalenamine (Chemical Abstracts Service Registry Number 91-59-8), a known human carcinogen. This substance, which is also known as 2-naphthlamine, *beta*-naphthylamine, *beta*-naphthalenamine, or 2-aminonaphthalene, was reported and included in the TSCA Chemical Substances Inventory. Upon investigation, it was ascertained that this substance had been reported by only one firm, an importer, which has now advised the Agency that it has not imported the substance—that in fact, the substance had been erroneously reported in place of a different substance.

Since the Inventory Reporting Regulations (40 CFR 710) specify that any substance reported for the Inventory must have been manufactured, imported or processed for commercial purposes in the United States since January 1, 1975, the Inventory submission on 2-naphthalenamine was inappropriate. Accordingly, the Agency intends to remove the substance from the TSCA Chemical Substances Inventory and is providing a 30-day comment period.

The Agency solicits comments from any firm or person who has manufactured, imported or processed the substance 2-naphthalenamine since January 1, 1975 and prior to the publication of this notice, or from anyone else who believes that the substance should not be removed from the TSCA Inventory.

Any person may, during the 30-day comment period, request the Agency to retain the substance on the Inventory. The Agency will take particular cognizance of any claims, supported by comments and documentation, that the substance has been manufactured, imported or processed for a commercial purpose between January 1, 1975 and the publication date of this notice. EPA will review all comments received and will make a decision regarding the removal of the substance after the termination of the 30-day period. The Agency's final decision will be announced in the **Federal Register.**

Written comments should be submitted to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm E-447, 401 M St., SW., Washington, DC 20460 on or before March 9, 1981. Three copies of all comments should be submitted, except that individuals may submit single copies of comments. Comments are to be identified by the document control number (OPTS-50027). Comments received and the citizen's petition file may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

If the Agency concludes that the substance should not be on the TSCA Inventory then, effective with the publication of a final notice of disposition, the substance will be considered removed—the presence of its name in the previously published version of the Revised Inventory notwithstanding. In that event, the premanufacture notification requirements of section 5 of TSCA would apply.

With the publication of this notice, any on-going manufacture, importation or processing of 2-naphthalenamine begun prior to the publication of this notice may continue until publication of the notice of disposition. EPA will not, however, consider any request to retain 2-naphthalenamine on the Inventory based on any manufacture, importation or processing of the substance that commences after the date this notice is published. If EPA does remove 2-naphthalenamine from the Inventory, any person wishing to begin manufacture or import of this substance must comply with the premanufacture notification requirements of section 5.

Dated: February 2, 1981.

Edwin H. Clark II,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 81-4361 Filed 2-5-81; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[Rpt. No. A-23]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: February 6, 1981.

Cut-off date: March 20, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after March 20, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 20, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than the close of business on March 20, 1981.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on March 20, 1981.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

BPCT-801208KG (new): Monterey, California, Schuyler-Littlefield Broadcasting Company, Channel 67, ERP: Vis. 2306 kW; HAAT: 2365 feet.

BPET-801210KK (new): Moline, Illinois, Black Hawk College, Channel 24, ERP: Vis. 124 kW; HAAT: 319 feet.

BPET-801211KE (new): Jefferson City, Missouri, The FAB Foundation, Inc., Channel 36, ERP: Vis. 1012 kW; HAAT: 841 feet.

BPCT-801211KF (new): Kalamazoo, Michigan, West Michigan Family Communications, Inc., Channel 64, ERP: Vis. 201 kW; HAAT: 498 feet.

BPCT-801222KH (WLYJ(TV)): Clarksburg, West Virginia, Christian Communication Center, Inc., Channel 46, ERP: Vis. to 156 kW; decrease HAAT: to 796 feet.

[FR Doc. 81-4220 Filed 2-5-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 81-11]

"50 Mile Container Rules" Implementation by Common Carriers by Water Serving the Atlantic and Gulf Coast Ports of the United States—Possible Violations of the Shipping Act, 1916, and of the Intercoastal Shipping Act, 1933; Order of Investigation

The Commission has reason to believe that since on or about January 1, 1981, certain common carriers by water (see Appendix) in the foreign and domestic offshore commerce of the United States may have been engaged in practices regarding the receiving, delivering and handling of cargo which are violative of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933 (46 U.S.C. 801-848).

Specifically, it appears that with respect to certain shippers, consignees,

freight forwarders, freight consolidators and non-vessel operating common carriers (NVOCC's), practices implementing the "50 mile container rules" [1] engaged in by carriers serving Atlantic and Gulf Coast ports of the U.S. are violative of sections 14 Fourth, 16 First, 17, 18(a) and 18(b) of the Shipping Act, 1916 and sections 2 and 4 of the Intercoastal Act, 1933. Such practices include: Refusal to load container cargo aboard vessels without interruption, delay or stripping and restuffing of the container and/or trailer; refusal to deliver container cargo without delay or stuffing and restuffing of the container and/or trailer; refusal to accept container bookings and confirm space on vessles; refusal to supply or make available containers, trailers or other equipment which is owned, leased or used by the carrier, for loading of cargo at NVOCC's, consolidator's and/or shipper's premises; refusal to load cargo unless shipped "loose" to port and stuffed in containers and/or trailers at the pier; passing on to individual NVOCC's, consolidators, and/or shippers any penalties or fines assessed the carrier for violation of the 50 Mile Container Rules should they occur; and imposing additional charges for stripping and restuffing containers and/or trailers at the pier. In addition, the carriers have apparently failed to reflect these practices in their tariffs.

A matter that must be addressed initially is the enactment of Pub. L. 96-325, the Maritime Labor Agreements Act of 1980.[2] That law clearly removed collective bargaining and related agreements, with the exception of certain types of assessment agreements, from Commission scrutiny. However, practices of common carriers which are required to be set forth in tariffs remain subject to the Shipping Act and, thus, to regulation by the Commission, whether or not those practies arise out of collective bargaining agreements. The pertinent language of the new statute is as follows:

Sec. 45. The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement.

The activities described herein appear to be essentially service restrictions and/or the imposition of additional charges which must be reflected in the carriers' tariffs.[3] Moreover, the Commission has in the past found similar practices to be proper subject matter for ocean carriers' tariffs. *Sea-Land Service, Inc. and Gulf Puerto Rico Lines, Inc.—Proposed Rules on Containers* and *Puerto Rico Maritime Shipping Authority—Proposed ILA Rules on containers*, 20 F.M.C 788, 20 S.R.R. 553 (1978), *appeal pending sub nom., CONASA and NYSA v. FMC and U.S.A.*, D.C. Cir. no. 78-1776. Thus, if the carriers named as Respondents have engaged in any of the practices described herein, then the failure of the carriers to reflect those practices in their tariffs would appear to violate the filing requirements of section 18(b) of the Shipping Act, 1916, and/or section 2 of the Intercoastal Shipping Act, 1933. An investigation is therefore necessary to determine whether the carriers have in fact engaged in these practices.

In addition, this investigation shall consider whether the practices described herein result in unjust discrimination and/or undue preference by means of different treatment for different classes of shippers; and whether these are reasonable practices relating to the receiving, delivering and handling of cargo.

Therefore, it is ordered, that pursuant to the authority of sections 14 Fourth, 16 First, 17, 18(a), 18(b), and 22 of the Shipping Act, 1916 and sections 2 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. sections 812, 815, 816, 817(a), 817(b), 821, 844, and 845(a)), and investigation is hereby instituted to determine whether the named respondent carriers have engaged in any of the practices set out in this order; if so, whether such practices constitute violations of the Shipping Act, 1916, and/or the Intercoastal Shipping Act, 1933; and whether a cease and desist order should issue;

It is further ordered, that the parties listed in the Appendix be named Respondents in this proceeding;

It is further ordered, that in accordance with Rule 42 of the Commission's rules of practice and procedure (46 CFR 502.42), the Bureau of Investigation and Enforcement shall be a party to this proceeding;

It is further ordered, that this proceeding shall be initially limited to the submission to the Commission of affidavits of facts and memoranda of law and replies thereto. Oral argument may also be scheduled if deemed necessary by the Commission. Should any party believe that discovery or an evidentiary hearing is required, that party must accompany any such request with a statement setting forth in detail the facts to be developed or proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit.

(1) Submissions filed by the Commission's Bureau of Investigation and Enforcement and Intervenors desiring to complain of the aforementioned alledged practices shall be served upon all other parties of record no later than close of business on March 23, 1981.

(2) Reply submissions shall be filed by the Respondents and other Intervenors and served upon all other parties of record no later than close of business on April 27, 1981.

(3) Rebuttal submissions shall be filed by the Bureau of Investigation and Enforcement and served on all parties of record no later than close of business on May 12, 1981.

(4) Requests for discovery, further hearing or for oral argument shall be filed with the Commission no later than close of business on May 25, 1981.

It is further ordered, that any person other than named respondents and the Bureau of Investigation and Enforcement having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72). In order to expedite the proceeding and facilitate participation, such persons desiring to intervene shall submit their affidavits and/or memoranda simultaneously with their petition to intervene, which will be considered if such petition is granted;

It is further ordered, that notice of this Order be published in the **Federal Register** and a copy be served upon all parties of record;

It is further ordered, that, except as provided in Rules 159 and 201(a) of the Commission's rules of practice and procedure (46 CFR 502.159, 46 CFR

[1] This term refers to the *Management—ILA Rules on Containers*, entered into between carrier and direct employer members of the Management Port Associations and the International Longshoreman's Association, AFL-CIO (ILA), its Atlantic Coast, South Atlantic and Gulf Coast Districts and affiliated local unions in each Management Port, as amended May 27, 1980 and as further amended December 6, 1980.

[2] 94 Stat. 1021, August 8, 1980.

[3] *See South Atlantic and Caribbean Lines, Inc.*, 12 F.M.C. 237, 241-242 (1969). *United States* v. *Sea-Land Service, Inc.*, 424 F. Supp. 1008, 1011-1012 (D.N.J. 1977), *appeal dismissed* 577 F. 2d 730 (3rd Cir. 1978) (table), *cert. denied* 439 U.S. 1072 (1979).

502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix

ABC Container Line N.V., One Harmon Plaza, 5th Floor, Secaucus, NJ 07094
Agromar Lines, c/o Gulf and Eastern, 29 Broadway, New York, NY 10006
Alcoa Steamship Co., Inc., One World Trade Center, Room 8151, New York, NY 10048
American Atlantic Lines, c/o Chester Blackburn & Roder, Inc., One World Trade Center, Suite 1067, New York, NY 10048
American Industrial Carriers, c/o Davies, Laurence & Co., 96 Cummings Point Road, Stamford, Conn. 06902
American President Lines, Limited, 1950 Franklin Street, Oakland, California 94612
Armasal Line, c/o Smith and Johnson (Gulf) Inc., 509 Julia Street, New Orleans, LA 71130
Atlantic Cargo Services, AB, One World Trade Center, Suite 3811, New York, NY 10048
Atlantic Container Line, Ltd., 80 Pine Street, New York, NY 10005
Atlanttrafik Express, c/o Barber Steamship Line, 17 Battery Place, New York, New York 10004
Bangladesh Shipping Corp., c/o Peralta Shipping Corp., 25 Broadway, New York, NY 10004
The Bank & Savill Line, c/o Boyd, Weir & Sewell, Inc., 17 Battery Place, New York, NY 10004
Bank Line, Ltd., c/o Lavino Shipping Agencies, Inc., 26 Broadway, New York, NY 10004
Barber Blue Sea Line, Barber Steamship Lines, Inc., 17 Battery Place, New York, NY 10004
Bermuda Container Line, c/o Norton, Lilly & Company, Inc., 90 West St., New York, NY 10006
A. Bottachi, S.A., De Navegacion, c/o American Ocean Shipping Corp., 50 Broad Street, New York, NY 10004
Black Star Line, Ltd., c/o F.W. Hartmann & Co., 17 Battery Place, New York, NY 10004
Box Lines, 17 Battery Place, New York, NY 10004
Caribe Cargo Express, Inc., 4791 S.W. 82nd Ave., Davie, Florida 33328
Cast Lines, 153 East 53rd St., 45th Floor, New York, NY 10022
CCT, 1533 Sunset Drive, Coral Gables, FL 33143
Central Gulf Lines, Inc., 2700 International Trade Mart, New Orleans, LA 70130
Chilean Line, 1 World Trade Center, Suite 3861, New York, NY 10048
CMA, c/o TTT Ship Agencies, 71 Broadway, New York, NY 10006
Columbus Lines, Inc., One World Trade Center, Suite 3247, New York, NY 10048
Compagnie Generale Transatlantique; French Line, 25 Broadway Suite 1006, New York, NY 10004
Compagnie Maritime Zairoise, c/o Roberts Steamship Agency, 500 ITM Bldg., New Orleans, LA 70130
Compagnie Nationale Algerienne De Navigation, c/o TTT Ship Agencies, Inc., 71 Broadway, New York, NY 10006
Companhia De Navegacao Loide Brasileiro, 17 Battery Place, New York, NY 10004
Companhia De Navegacao Maritima Netumar, 67 Broad Street, New York, NY 10004
Compania Peruana de Vapores, c/o Tilston Roberts, 17 Battery Place, New York, NY 10004
Compania Trasatlantica Espanola, S.A.; Spanish Line, 39 Broadway, New York, NY 10006
Concorde Line, c/o Norton, Lilly & Co., Inc., 90 West Street, New York, NY 10006
Concordia Line, c/o Boise-Griffin-Steamship Co., Inc., One World Trade Center, Suite 3811, New York, NY 10048
Constellation Line, c/o Constellation Navigation, Inc., 233 Broadway, New York, NY 10007
Contract Marine Carriers, Inc., c/o Transocean Transport, P.O. Box 524, 10 S. Franklin Turnpike, Ramsey, NJ 07746
Costa Line, Cargo Services, Inc., 26 Broadway, New York, NY 10004
D. B. Turkish Cargo Lines, c/o Thule Ship Agency, Inc., One World Trade Center, Suite 2257, New York, NY 10048
Dampskibsselskabet Torm A/S; Torm Lines, c/o Peralta Shipping Corp., 25 Broadway, New York, NY 10004
Dart Containerline Co., Ltd., Dart Orient Services, Inc., 5 World Trade Center, New York, NY 10048
Delta Steamship Lines, Inc., P.O. Box 50250, New Orleans, LA 70150
Ecuadorian Line, Inc., 19 Rector Street, New York, NY 10006
E.L.M.A., c/o Nedlloyd, Inc., 5 World Trade Center, Suite 617, New York, NY 10048
Egyptian National Line, c/o Uiterwyk Corp., 90 West Street, New York, NY 10006
Evergreen Line, Evergeen Marine Corp., 1 World Trade Center, New York, NY 10048
Farrell Lines, One Whitehall Street, New York, NY 10004
Flomerca Line, c/o Kerr Steamship Co., Inc., 2 World Trade Center, 99th Floor, New York, NY 10048
Forest Lines (International Navigation, Ltd.), c/o Gulf & Eastern Steamship Co., 29 Broadway, New York, NY 10006
Frota Amazonica S.A., c/o Omnium Agencies, Inc., 42 Broadway, New York, NY 10004
Galleon Shipping Corp., c/o Trans Asia Marine Corp., 60 Broad Street, New York, NY 10004
Galapagos Line, S.A., c/o of Boyd, Weir & Sewell, Inc., 17 Battery Place, New York, NY 10004
G.B.S. Line, Ltd., c/o Phillips-Parr, Inc., Cotton Exchange Bldg., Houston, TX
Grancolombiana, One World Trade Center, Suite 1603, New York, NY 10048
Gulf Atlantic Transport, 1720 E. Adams St., Jacksonville, FL 32201
Gulf Europe Express, c/o Barber Steamship Lines, Inc., 17 Battery Place, New York, NY 10004
Hafskip, Ltd., c/o Hansen and Tidemann, Inc., One World Trade Center, Suite 1627, New York, NY 10048
Hapag Lloyd AG, c/o U.S. Navigation, Inc., 17 Battery Place, New York, NY 10004
Hanjim Container Lines, Ltd., 120 Broadway, No. 715, New York, NY
Hellenic Lines Ltd., 39 Broadway, New York, NY 10006
Hoegh Lines, c/o Nedlloyd, Inc., 5 World Trade Center, Suite 617, New York, NY 10048
Holland Pan-American Line, c/o Constellation Navigation, Inc., 233 Broadway, New York, NY 10007
Ibero Lines, c/o Box Line Shipping Co., Ltd., 17 Battery Place, New York, NY 10004
Iceland Steamship Co., Ltd., c/o A. L. Burbank and Co., Ltd., 2000 Seaboard Ave., P.O. Box 7067, Portsmouth, VA 23707
Imparca Express, 330 Biscayne Blvd., Miami, FL 33132
Italian Line, One Whitehall Street, New York, NY 10004
Ivaran Lines, United States Navigation Co., Inc., 17 Battery Place, New York, New York 10004
Japan Line (U.S.A.), Ltd., 1 World Trade Center, Suite 2867, New York, New York 10048
Jeco Shipping Line, c/o Combined Maritime Agencies, Inc., Suite 1800, 39 Broadway, New York, NY 10006
Jinyang Line, c/o T. J. Stevenson & Co., 65 Broadway, New York, NY 10006
Jugolinija, c/o Crossocean Shipping Co., Inc., One World Trade Center, Suite 2045, New York, New York 10048
K Line, c/o Kerr Steamship Agencies, 2 World Trade Center, 99th Floor, New York, NY 10048
Karlander Kangaroo Line, Transpacific Transportation Co., 650 California Street, San Francisco, California 94108
Kirk Line, c/o Eller & Company, Inc., 3000 Biscayne Blvd., Miami, FL 33137
KMTC Line, c/o Dalton Steamship Corp., World Trade Bldg., Houston, TX
Koctug Line, c/o United States Navigation, Inc., 17 Battery Place, New York, NY 10004
Korea Shipping Corp., Ltd., c/o Korea Shipping America, Inc., 71 Broadway, New York, New York 10006
Lignes Centrafricaines, c/o Oceans International Corp., 1314 Texas Avenue, Suite 1112, Houston, TX 77002
Linea Manaure C.A., 3000 Biscayne Blvd., Miami, FL 33137
Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, LA 70130
Maersk Line, Moller Steamship Company, Inc., One World Trade Center, Suite 3527, New York, NY 10048
Mar Chile Line, c/o TTT Ship Agents, Inc., 71 Broadway, New York, NY
Maritime Company of the Philippines, c/o North American Maritime Agencies, 17 Battery Place, New York, NY 10004
Medafrica Line, c/o Crossocean Shipping Co., Inc., Suite 2045, One World Trade Center, New York, NY 10048
Mexican Line, c/o Norton, Lilly & Co., Inc., 90 West St., New York, NY 10006

Mitsui O.S.K. Lines Ltd., One World Trade Center, Suite 2211, New York, NY 10048
Moore-McCormack Lines, 2 Broadway, New York, NY 10004
MTO Liner Services, c/o Maritime Transport Overseas, Inc., 19 Rector St., New York, NY 10006
Nacional Line, c/o Norton Lilly & Co., 90 West Street, New York, NY 10006
Namucar Line, c/o Tilston Roberts Corp., 17 Battery Place, New York, NY 10004
Naviera Central, C.A., c/o TMT Corp., P.O. Box 2110, Jacksonville, FL 32203
Nedlloyd Lines, 5 World Trade Center, Suite 617, New York, New York 10048
Neptune Orient Lines, Ltd., c/o Containership Agency, Inc., 26 Broadway, New York, NY 10004
Nigeria America Line, c/o Crossocean Shipping Co., Inc., One World Trade Center, Suite 2045, New York, New York 10048
Nigerian Star Line, c/o Mediterranean Agencies, One World Trade Center, Suite 2969, New York, New York 10048
Nippon Yusen Kaisha, One World Trade Center, Suite 5031, New York, New York 10048
Nopal Lines, c/o Lorentzen Shipping, 2125 Biscayne Blvd., Miami, FL 33137
Nordana Line, c/o Barber Steamship Lines, Inc., 17 Battery Place, New York, New York 10004
Ocean World Lines, One World Trade Center, Suite 2561, New York, NY 10048
Orient Overseas Container Line, c/o Dart Orient Services, Inc., 5 World Trade Center, New York, NY 10048
P.A.C.E. Line, One World Trade Center, Suite 8101, New York, NY 10048
Pakistan National Shipping corp., c/o Crossocean Shipping Co., Suite 2045, One World Trade Center, New York, NY 10048
Pan Atlantic Lines, c/o Chester Blackburn & Roder, Inc., One World Trade Center, Suite 1067, New York, NY 10048
P & O Strath Services, c/o Tilston Roberts Corp., 17 Battery Place, New York, NY 10004
Polish Ocean Lines, One World Trade Center, Suite 3557, New York, New York 10006
Portuguese Line C.T.M., c/o Tilston Roberts Corp., 17 Battery Place, New York, NY 10004
Prudential Lines, Inc., One World Trade Center, Suite 3701, New York, NY 10048
P. T. Djakarta Lloyd, c/o Tilston Roberts Corp., 17 Battery Place, New York, NY 10004
Puerto Rico Maritime Shipping Authority, P.O. Box 71306, San Juan, Puerto Rico 00936
Rocargo, C.A., c/o Lorentzen Shipping, 2125 Biscayne Blvd., Miami, FL 33137
-Ro-lo Pacific Line, c/o Trans-American Steamship Agency, Inc., 100 California Street, San Francisco, CA
Royal Netherlands Steamship Co., Five World Trade Center, Suite 7411, New York, NY 10048
Salen Dry Cargo, DBA Salen Project/Liner Services, c/o International Consultants, Inc., 17 Battery Place, Suite 1930, New York, NY 10004
Saudi Concordia Shipping Co., Ltd., c/o Boise-Griffin Steamship Co., Inc., One World Trade Center, New York, NY 10048
Saudi National Lines, c/o Costa Line Cargo Services, Inc., 26 Broadway, New York, NY
Scindia Steam Navigation Co., Ltd., c/o U.S. Navigation, Inc., 17 Battery Pl., New York, NY 10004
Sea-Land Service, Inc., 10 Parsonage Road, Menlo Park, NY 08817
Sea Pack, Seatrain Pacific Services, 433 Hegenberger Road, Suite 200, Oakland, CA 94621
Seaspeed Serives, c/o Hansen & Tidemann, Inc., One World Trade Center, Suite 1627, New York, NY 10048
Shipping Corp. of India, Ltd., c/o Norton, Lilly & Co., Inc., 90 West Street, New York, NY 10006
Showa Line, c/o Norton, Lilly & Co., 90 West Street, New York, NY 10006
South African Marine Corp., Ltd., One Bankers Trust Plaza, New York, NY 10006
Span-Chile Line, c/o Omnium Agencies Inc., 42 Broadway, New York, NY 10004
Surinam Line, c/o Hansen & Tidemann, Inc. Suite 1627, One World Trade Center, New York, NY 10048
TMS Line, c/o Trans Marine Shipping Corp., 5020 Cypress St., Suite 222, Tampa, FL 33607
Trans Caribbean Lines, 3301 N.W. South River Dr., Miami, FL 33142
Trans Freight Lines, 1 Harmon Plaza, Seacaucus, NJ 07094
Transnave-Transporte Navieros Ecuatorianos, c/o U.S. Navigation, Inc., 17 Battery Pl., New York, NY 10004
Trans World Systems, Intersails Cargo Ltd., 90 West Street, New York, NY 10006
Trikora Lloyd, c/o Kerr Steamship Company, Inc., 2 World Trade Center, New York, NY 10048
Tropical Shipping & Construction Co., Ltd., 821 Avenue "E", Riviera Beach, FL 33404
Uiterwyk Shipping Lines, 90 West Street, New York, NY 10006
United Arab Shipping Co. (S.A.G.), c/o Kerr Steamship Co., Inc., 2 World Trade Center, New York, NY 10048
United States Lines, Inc., 27 Commerce Drive, Cranford, NJ 07016
Uruguayan Line, c/o Hansen & Tidemann, Inc., One World Trade Center, Suite 1627, New York, NY 10048
U.S. Africa Line, c/o East Coast Overseas, 80 Broad Street, New York, NY 10004
Venezuelan Line, c/o Hansen & Tidemann, Inc., One World Trade Center, Suite 1627, New York, NY 10048
Waterman Steamship Corp., 120 Wall Street, New York, NY 10005
West India Shipping Co., 153 East Port Rd., West Palm Beach, FL 33404
Westwind Africa Line, Ltd., c/o Southern Star Shipping Co., Inc. 245 Park Ave., New York, NY 10017
Yamashita Shinnihon Steamship Co., c/o TTT Ship Agencies, Inc. 71 Broadway, New York, NY 10006
Yangming Marine Transport Corp., c/o Solar International Shipping Agency, Two World Trade Center, Suite 2264, New York, NY 10048
Zim Lines, One World Trade Center, Suite 2969, New York, NY 10048

[FR Doc. 81-4391 Filed 2-5-81; 8:45 am]

BILLING CODE 6730-01-M

Preferential Assignment Agreement Between City of Long Beach, California, and Metropolitan Stevedore Co.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on the preferential assignment Agreement No. T-3939 between the Port of Long Beach, California, and Metropolitan Stevedore Company will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*, and that preparation of an environmental impact statement is not required.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 81-4446 Filed 2-5-81; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Erich H. Trendel, 53 Maple St., Roslyn Heights, NY 11577

AAA Freight Forwarding Company (Margaret J. Colapietro, d.b.a.), 502-C Palm Avenue, Millbrae, CA 94030

Excel International Forwarders (Reiko Soejima Gibbs, d.b.a.), 7336 Finevale Drive, Downey, CA 90240

Dated: February 3, 1981.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 81-4406 Filed 2-5-81; 8:45 am]

BILLING CODE 6730-01-M

[License No. 1845]

Independent Ocean Freight Forwarder; Souri International Forwarding, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Souri International Forwarding, Inc., One World Trade Center, #8463, New York, NY 10049, FMC No. 1845, was cancelled effective November 19, 1980.

Souri International Forwarding, Inc. has failed to furnish a valid replacement surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1845, issued to Souri International Forwarding, Inc. be and is hereby revoked effective November 19, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 1845, issued to Souri International Forwarding, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Souri International Forwarding, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-4407 Filed 2-5-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonban Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than March 4, 1981.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California, (financing and credit life, health and accident insurance activities; Pennsylvania): To engage through its subsidiary, Security Pacific Consumer Discount Company, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and making other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit life, health and accident insurance. These activities would be conducted from offices of Security Pacific Consumer Discount Company located in Hershey and New Castle, Pennsylvania, serving the State of Pennsylvania.

2. Security Pacific Corporation, Los Angeles, California (financing and credit-related insurance activities; Florida): To engage through its subsidiaries, Security Pacific Finance Corp. and Security Pacific Finance Credit Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses, and making other extensions of credit such as would be made by a factoring company or a consumer finance company; and acting as broker or agent for the sale of credit-related property and casualty insurance. These activities would be conducted from offices of Security Pacific Finance Corp. and Security Pacific Finance Credit Corp., located in Gainsville, Florida, serving the State of Florida, and would constitute a relocation of existing offices of Security Pacific Finance Corp. and Security Pacific Finance Credit Corp. which are currently located in Lake City, Florida. Comments on this application must be received by March 2, 1981.

3. Wells Fargo & Company, San Francisco, California (finance, real estate appraisal and insurance activities, California, Nevada, Arizona, Oregon, Washington, Idaho, Utah, Montana, Wyoming, Colorado, Hawaii and Ohio) proposes to engage through its subsidiary, Wells Fargo Mortgage Company, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to (1) credit life and credit accident and health insurance, and (2) mortgage redemption life insurance and group mortgage disability insurance, and performing appraisals of real estate. These activities would be conducted from an office in San Jose, California serving California, Nevada, Arizona, Oregon, Washington, Idaho, Utah, Montana, Wyoming, Colorado, Hawaii, and Ohio. Comments on this application must be received by March 2, 1981.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4397 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

Bonham Bancshares, Inc.; Formation of Bank Holding Company

Bonham Bancshares, Inc., Bonham, Texas, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Bonham, Bonham, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4393 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

Burlington Bancshares, Inc.; Formation of Bank Holding company

Burlington Bancshares, Inc., Burlington, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Bank of Burlington, Burlington, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Resaerve Bank, to be received not later than March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4394 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

First Bellevue Bancshares; Formation of Bank Holding Company

First Bellevue Bancshares, Bellevue, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Bellevue, Bellevue, 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. 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 March 4, 1981. Any comment on an application that request 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, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4395 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

James Madison Ltd.; Formation of Bank Holding Company

James Madison Limited, Washington, D.C., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Madison National Bank, Washington, D.C. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4396 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Security Pacific International Bank, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Boston, Massachusetts; Minneapolis, Minnesota; St. Louis, Missouri; Cleveland, Ohio; and Seattle, Washington. Security Pacific International Bank operates as a subsidiary of Security Pacific National Bank, Los Angeles, California.

The factors that are to be considered in acting on this application are set forth in section 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4398 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

Tri-Parish Bancshares, Ltd.; Formation of Bank Holding Company

Tri-Parish Bancshares, Ltd., Eunice, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding

company by acquiring 80 percent or more of the voting shares of Tri-Parish Bank and Trust Company, Eunice, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4399 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

Union Chelsea International Corp.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Union Chelsea International Corporation, Miami, Florida. Union Chelsea International Corporation would be jointly owned by Union Chelsea National Bank, New York, New York, and Banco Union C.A., Caracas, Venezuela. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4400 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

West Gate Banshares, Inc.; Formation of Bank Holding Company

West Gate Banshares, Inc., Omaha, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of West Gate Bank, Lincoln, 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. 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 March 4, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 2, 1981.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 81-4401 Filed 2-5-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79P-0484]

Response to Petition Seeking Withdrawal of the Policy Described in the Agency's "Paper" NDA Memorandum of July 31, 1978

Correction

In FR Doc. 80-38522, published at page 82052, On Friday, December 12, 1980, make the following corrections:

(1) On page 82054, in the first column, in the second paragraph, in the first line, "314.1(c)(2)12.3." should be corrected to read "314.1(c)(2)12.e.".

(2) On page 82058, in the first column, in the first full paragraph, in the second line, "July 31" should be corrected to read "July 31 staff".

(3) On page 82060, in the first column, in the eleventh line, "(Pet. 30-46)" should be corrected to read "(Pet. 39-46)".

(4) Also on page 82060, in the first column, thirteen lines from the bottom, "627" should be corrected to read "628".

(5) And on page 82062, in the third column, in the first full paragraph, in the eighteenth line, "FDA's" should be corrected to read "NDA's".

BILLING CODE 1505-01-M

Office of the Secretary

[OS-4110-12]

Poverty Research Center, Extension of Deadline for Grant Applications

This announcement herewith extends the closing date for applications for the Poverty Research Center grant from February 16, 1981 to February 17, 1981 due to a national holiday on February 16, 1981.

Dated: February 2, 1981.

Gerald H. Britten,

Planning and Evaluation.

[FR Doc. 81-4388 Filed 2-5-81; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-81-1057]

Community Development Block Grants; Urban Development Action Grant Notice

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This Notice informs all Small City Urban Development Action Grant applicants who submitted applications in accordance with § 570.460 for the review period of December 1, 1980 to January 31, 1981 that decisions on preliminary funding approvals and public announcements of said approvals shall be made by February 16, 1981. Should it be necessary, § 570.460 will be amended to reflect any changes as quickly as procedures permit.

EFFECTIVE DATE: February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Patricia Burke, Regions 1 and 4—(202/755-7362), Stanley Newman, Region 2—(202/755-6193), Harvey Zeiger, Regions 3 and 10—(202/755-0268), William Hammer, Region 5-(Illinois, Indiana, and Minnesota)—(202/755-6035), and David Sowell-(Michigan, Ohio and

Wisconsin)—(202/755-6284), Charles Kendrick, Regions 6 and 8—(202/755-5620), Wally May, Regions 7 and 9—(202/755-8227). (These are not toll free numbers.) Address: Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., January 30, 1981.

Donald G. Dodge,

Acting Assistant Secretary, Office of Community Planning and Development.

[FR Doc. 81-4402 Filed 2-5-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6705-B, AA6705-D, AA-6705-E, AA-6705-H, AA-6705-L, AA-6705-A2]

Alaska Native Claims Selections

On November 11 and December 18, 1974, and December 5, 1975, Togiak Natives Limited, for the Native village of Togiak, filed selection applications AA-6705-B, AA6705-D, AA-6705-E AA-6705-H, AA-6705-L, and AA-6705-A2 under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Togiak.

As to the lands described below, the applications submitted by Togiak Natives Limited, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to sections 12(a) and (b) of ANCSA, aggregating approximately 24,718 acres, is considered proper for acquisition by Togiak Natives Limited and is hereby approved for conveyance pursuant to section 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 11 S., R. 66 W.,
Secs. 3 and 18, all;
Secs. 19 and 30, all.
Containing approximately 2,519 acres.

T. 11 S., R. 67 W.,
Sec. 13 all;
Secs. 21 and 28, inclusive, all;
Secs. 33 and 36, inclusive, all.
Containing approximately 8,320 acres.

T. 12 S., R. 67 W.,
Secs. 1 to 4, inclusive, all.
Containing approximately 2,560 acres.

T. 13 S., R. 68 W.,
Secs. 5 to 8, inclusive, all;
Secs. 10 and 11, all;
Secs. 14, 15, and 16, all;
Secs. 18, 19, 30, and 31, all.
Containing approximately 8,119 acres.

T. 14 S., R. 69 W.,
Secs. 3, 10, 15, and 22, all;
Sec. 27 all.
Containing approximately 3,200 acres.

Aggregating approximately 24,718 acres.

The conveyance isssued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accuring unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f).

There are no easements to be reserved to the United States pursuant to section 17(b) of the Alaska Native Claims Settlement Act.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way or easement, and the right of the leasee, contractee, permittee, or grantee to the complete enjoyment of all rights privileges and benefits thereby granted to him. Further pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Togiak Natives Limited is entitled to conveyance of 138,240 acres of land selected pursuant to section 12(a) of ANCSA. To date, approximately 131,606 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 6,634 acres will be conveyed at a later date.

The village of Togiak has been reallocated 12,975 acres of land pursuant to section 12(b) of the Alaska Native Claims Settlement Act. To date approximately 12,119 acres of the section 12(b) reallocation have been approved for conveyance. The remaining entitlement of approximately 856 acres will be conveyed at a later date.

Pursuant to section 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Togiak Natives Limited for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 9, 1981, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an

appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are: Togiak Natives Limited, Togiak, Alaska 99678; and Bristol Bay Native Corporation; P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 4061 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

[AA-6654-A2]

Alaska Native Claim Selection

On December 9, 1975, Chignik Lagoon Native Corporation, for the Native village of Chignik Lagoon, filed selection application AA-6654-A2 under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Chignik Lagoon area.

On November 14, 1978, the State of Alaska filed general purposes grant selection application AA-21870, pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)), for certain lands in the Chignik Lagoon area.

The following described lands have been properly selected by Chignik Lagoon Native Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated,* and *unreserved* public lands in Alaska. Therefore, the following State selection application is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed) State Selection AA-21870

T. 43 S., R. 60 W.,
Secs. 12, 13, and 14, all.
Containing approximately 1,920 acres.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection application as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the application submitted by Chignik Lagoon Native Corporation, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(b) of ANCSA, aggregating approximately 1,920 acres, is considered proper for acquisition by Chignik Lagoon Native Corporation and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 43 S., R. 60 W.,
Secs. 12, 13, and 14, all
Containing approximately 1,920 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant to section 17(b) of Alaska Native Claims Settlement Act.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as the prescribed in said section.

The village of Chignik Lagoon has been reallocated 1,960 acres of land pursuant to section 12(b) of the Alaska Native Claims Settlement Act. To date, approximately 1,920 acres of the 12(b) reallocation have been approved for conveyance. The remaining entitlement of approximately 40 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Chignik Lagoon Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies which the described lands considered to be navigable.

In accordance with Department regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Department of the Interior concerning navigability of water bodies.

Appeals should be filed with Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 9, 1981, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance

with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are: Chignik Lagoon Native Corporation, Chignik Lagoon, Alaska 99565; and Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 81-4062 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

San Juan Basin Cumulative Overview and New Mexico Generating Station Environmental Impact Statement Preparation; Public Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Schedule of public meetings to determine scoping of information analyses and preparation of the San Juan Basin Cumulative Overview and the New Mexico Generating Station EIS.

SUMMARY: The proposed actions to be considered include a proposed 2,000-megawatt coal-fired generation station and ancillary facilities in San Juan County, New Mexico, and an overview which will address the cumulative environmental, social and economic impacts of numerous site-specific Federal actions proposed in the San Juan Basin, including the proposed Multiple Resource Program which would provide on-the-ground management for the area. Additional public meetings have been scheduled for February 23, 1981, in Taos, New Mexico at the Kachina Lodge at 7:00 p.m., and February 25, 1981, in Dulce, New Mexico at the Jicarilla Apache Tribal Office at 1:00 p.m.

EFFECTIVE DATE: February 6, 1981.

ADDRESS: Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gene Day, Bureau of Land Management, New Mexico State Office, Telephone Number: (505) 988-6467.

Ed Hastey,

Associate Director.

January 28, 1981.

[FR Doc. 81-4060 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

Extension of Public Comment Period on the Draft Wilderness Study Policy

AGENCY: Bureau of Land Management.

ACTION: Notice of extension for public comment period.

SUMMARY: This notice announces a 30-day extension for the 75-day public comment period on the Draft Wilderness Study Policy: Policies, Criteria, and Guidelines for Conducting Wilderness Studies on the Public Lands, published in the **Federal Register**, December 19, 1980, (45 FR 83780). This notice extends the comment period to April 2, 1981.

DATE: Comments by April 2, 1981.

ADDRESS: Comments or suggestions should be sent to: Director (430), Bureau of Land Management, 1800 C Street N.W., Washington, D.C. 20240. Comments will be available in Room 5600 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James R. Edward, Division of Wilderness and Environmental Areas, (202) 343-6064).

Ed Hastey,

Acting Director, Bureau of Land Management.

[FR Doc. 81-4319 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

Craig District, White River Resource Area, Colorado; Amendment to White River Management Framework Plan and Meeting

Notice is hereby given in accordance with Pub. L. 94-579 Section 603 and 43 CFR Part 1601 that the Bureau of Land Management, Craig District, Colorado, is beginning the process of amending the White River Management Framework Plan (MFP) for wilderness, coal and oil shale resources in the White River Resource Area. The White River Resource Area is located primarily in the White River drainage in northwestern Colorado and includes Rio Blanco County and portions of Moffat and Garfield Counties.

Planning Actions

Wilderness

The MFP Wilderness Amendment will consider designating Wilderness Study Areas (WSAs) as wilderness or for other uses. Reasonable uses will be assessed in an Environmental Impact Statement (EIS) and a recommendation will be made to the Congress of the United States to designate appropriate WSAs as Wilderness or Non-Wilderness.

The following six WSAs in the White River Resource Area will be studied for their wilderness suitability: CO-010-001, Bull Canyon, 12,297 acres (includes 520 acres in Utah); CO-010-002, Willow Creek, 13,368 acres; CO-010-003, Skull Creek, 13,740 acres; CO-010-007A, Black Mountain, 9,932 acres; CO-010-007C, Windy Gulch, 12,274 acres; CO-010-046, Oil Spring Mountain, 17,740 acres. The decision to study these areas is still under protest and subject to appeal.

Coal

The purpose of the MFP Coal Amendment is to identify those areas that have high or moderate coal development potential that are suitable for further consideration for competitive coal leasing. The effects of designating areas as suitable or unsuitable for further consideration for coal development will be assessed in an Environmental Assessment.

Areas of moderate or high coal development potential in the Danforth Hills Known Recoverable Coal Resource Area (KRCRA) and the Lower White River KRCRA will be considered in this MFP Amendment. Any area for which information is submitted by coal companies, state government, or members of the public will also be considered.

Oil Shale

The purpose of amending the MFP is to consider further competitive leasing of BLM administered land for oil shale development. A full range of alternatives will be considered, ranging from no action to the active leasing of additional oil shale.

General Issues

The following is a list of significant issues related to the planning actions that have been identified at this time. Issues which have been identified for the wilderness amendment are: beneficial and adverse effects on other resources of designation of a WSA as wilderness or non-wilderness; the manageability of the area for wilderness, socio-economic effects; effects on energy and mineral development; and possible conflicts with resource-related plans, of other Federal agencies or state and local goverments.

Issues for coal and oil shale are cumulative impacts of energy development, effectiveness of reclamation, effects on air quality, water quantity and quality effects, effects on cultural resources, social and economc impacts, conflicts with oil and gas development wildlife effects and possible health effects.

Planning Criteria

The planning criteria for the MFP wilderness amendment are those which are listed in BLM's Draft Wilderness

Study Policy published in the Federal Register on December 19, 1980.

The planning criteria for the MFP Coal Amendment are the unsuitability criteria found in 43 CFR 3461.1.

Planning criteria for the MFP Oil shale Amendment will be developed from significant oil shale issues, laws, and guidance as required by 43 CFR 1601.5-2.

Interdisciplinary Team

The following resources will be represented on the interdisciplinary team. Wilderness, Soils, Visual Resources, Economics, Hydrology, Sociology, Geology, Recreation, Vegetation, Livestock, Wildlife, Cultural Resources, Forestry, Surface Reclamation, Realty, Air Quality, and Transportation.

Public Participation Activities

Initial public meetings wil be held regarding the White River MFP amendments for wilderness, coal, and oil shalre as follows:

February 26, 1981—Rangely, Colorado; Municipal Building, 209 East Main; 7:00 P.M.
March 3, 1981—Denver, Colorado; Auditorium, Main Post Office Building at 18th and Stout Streets; 1:30 P.M.
Lakewood, Colorado, Ramada Inn Foothills, 11595 W. 6th Avenue; 7:00 P.M.
March 4, 1981—Grand Junction, Colorado, BLM, 764 Horizon Drive; 7:00 P.M.
March 5, 1981—Meeker, Colorado, Fairfield Center, 200 Main; 7:00. P.M.

Public meetings will be held regarding MFP amendments for wilderness and oil shale in the Vernal District as follows:

February 24, 1981—Salt Lake City, Utah, BLM, University Club Building, 13th Floor, 136 East South Temple Street; 7:00 P.M.
February 25, 1981—Vernal, Utah, BLM, 170 South 500 East; 7:00 P.M.

Oral comments will be received at the meetings. Written comments for the Craig District meetings should be received by March 13, 1981, at the address below.

Official BLM Contact: Terry Loyer, Planning Coordinator, BLM, Craig District Office, 455 Emerson Street (P.O. Box 248), Craig, Colorado 81625, or telephone (303) 824-8261.

David J. Walter,
Acting District Manager.

[FR Doc. 81-4425 Filed 2-5-81; 8:45 am]
BILLING CODE 4310-84-M

[W-73283]

Wyoming; Invitation for Coal Exploration Licenses; Sohio Western Mining Company

Correction

In FR Doc. 81-1467 appearing at page 3645 in the issue of Thursday January 15, 1981, make the following correction:

On page 3645, in the second column, in the land description for W-73283, Sec. 29 should read "N½, SW¼, NE¼, SE¼, and S½, SE¼."

BILLING CODE 1505-01-M

Pacific Power & Light Co.; Proposed 500 kV Electrical Transmission Line From Eugene to Medford, Oregon; Intent To Prepare an Environmental Impact Statement by Third Party Contractor and Conduct Scoping Meetings

Purpose and Need for Action. The proposed project will provide a pathway between Eugene and Medford, Oregon, for electrical energy from Pacific Power and Light Company's (PP&L) and other regional sources of power. The pathway would provide a linkage between the main northwest transmission system near Eugene, and PP&L's transmission system near Medford, thereby increasing the reliability of both systems.

EIS Lead and Preparation Authority. The Department of the Interior, Bureau of Land Management (BLM), Oregon State Office, as designated lead agency will select a contractor to be hired by Pacific Power and Light Company (PP&L), to prepare an Environmental Impact Statement (EIS) on the 500 kV Transmission Line proposed by PP&L, from Eugene to Medford, Oregon.

Description of Proposal. The proposed 500 kV line would be approximately 145 miles in length, crossing lands under the jurisdiction of the BLM for a distance of approximately 22 miles within Lane, Douglas, and Jackson Counties, Oregon. The route proposed by PP&L would follow an existing 230 kV line for most of its length, but the proposed route at the Eugene and Medford ends has not been defined.

EIS Discussion. The EIS will discuss alternatives to the proposed action. These may include several possible routes for the line or other alternatives, including the no action alternative.

The EIS will identify and discuss the impacts of constructing the proposed line or any other alternative considered. The EIS will become a decision-making tool to be used by the BLM for the right-of-way application review process. The State of Oregon will use the document in review of their facility siting regulations.

The draft EIS is scheduled for completion in the spring of 1982 and the final EIS in the fall of 1982.

Cooperators in EIS Preparation. A Memorandum of Understanding (MOU) has been developed which describes the relationships and responsibilities of the parties involved in preparation of the EIS. The BLM is designated as the lead agency in the preparation and Bonneville Power Administration (BPA), Oregon State Department of Energy, and PP&L are cooperators. BLM will have final responsibility for the preparation and completion of the EIS. BPA would provide a connection at the Eugene end of the line and also provide expertise in transmission line impacts. The Oregon State Department of Energy and the Oregon Energy Facility Siting Council will ensure that State requirements for transmission lines are fulfilled. PP&L will provide proposal data and pay the EIS contractor and BLM expenses related to the EIS preparation.

Scoping Meetings. The BLM and State of Oregon will conduct joint scoping meetings for the purpose of soliciting public input concerning the proposed powerline. Significant issues and viable alternatives identified at the meetings will be considered for discussion in the draft EIS and in the applicants proposal to the Energy Facility Siting Council. Scoping meetings are scheduled for March 2, 3 and 4 for Eugene, Roseburg, and Medford respectively. These meetings will be held at 3:00 p.m. and 7:00 p.m. in the following locations:

Eugene—Eugene City Hall, City Council Chambers, 777 Pearl Street, Eugene, Oregon
Roseburg—Bureau of Land Management, 777 NW Garden Valley Blvd., Roseburg, Oregon
Medford—Medford City Hall, City Council Chambers, 411 W. 8th Street, Medford, Oregon

Further information may be obtained from the following individual: Paul Kangas, Environmental Coordinator, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208, Telephone (503) 231-6272.

Dated: January 30, 1981.

Philip C. Hamilton,
Chief, Planning and Environmental Coordination Staff, Oregon State Office.

[FR Doc. 81-4424 Filed 2-5-81; 8:45 am]
BILLING CODE 4310-84-M

[Serial Nos. A-15984, A-15985, A-15986]

Arizona; Proposed Classification of Public Lands for State Indemnity Selection

1. The Arizona State Land Department has filed a petition for classification and application to acquire the described lands in paragraph 5 below, under the provisions of the Enabling Act, as amended, in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. These applications have been assigned serial numbers A-15984, A-15985, and A-15986.

2. The Bureau of Land Management will examine these lands for evidence or prior valid rights or other statutory constraints that would bar transfer, and if found suitable for transfer, proposes to classify the lands under Section 7, Taylor Grazing Act and the regulations in 43 CFR 2400 for transfer in response to the State's request.

3. Information concerning these lands and the proposed transfer to the State of Arizona may be obtained from the District Manager, Phoenix District Office, BLM, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, (602-241-2854).

4. For a period of 60 days from the date of publication of this notice in the Federal Register, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Phoenix District Manager, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Under CFR 2462.1, a public hearing will be scheduled by the District Manager if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this proposed classification are located in Maricopa County, Arizona and are described as follows:

Application A-15984

Gila and Salt River Meridian, Arizona

T. 6 S., R. 5 W.,
Sec. 7: Lots 2, 3, 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼; [9 34 36]
Sec. 8: SE¼NE¼, S½; [10 34 36]
Sec. 9: All; [10 34 36]
Sec. 10: SE¼NE¼, NW¼NW¼, SW¼NW¼, SE¼; [10 34 36]
Sec. 18: Lots 1, 2, NW¼NE¼, NE¼NW¼, [9 34 36]

T. 6 S., R. 6 W.,
Sec. 13: N½, N½SW¼, SW¼SW¼, NW¼SE¼; [9]
Sec. 15: All; [9]
Sec. 16: All; [9 14]
Sec. 17: E½; [9 14]
Sec. 19: E½; [9]
Sec. 21: All; [9]
Sec. 22: N½, N½SW¼, NW¼SE¼; [9]
Sec. 23: NW¼NE¼, N½NW¼, SW¼NW¼; [9]
Sec. 25: NE¼; [9 36]

Application A-15985

Gila and Salt River Meridian, Arizona

T. 2 S., R. 4 W.,
Sec. 22: S½SE¼; [1 11]
Sec. 23: All; [1 2 3 11 12 15]
Sec. 24: N½, SW¼; [2 12 15]
Sec. 25: N½, E½SW¼, E½W½SW¼, SE¼; [2, 4 5 11 12 16 17]
Sec. 26: N½NE¼; [1 2 5 11 18]
Sec. 27: N½, SW¼, N½SE¼, SW¼SE¼; [4 5 11 19]
Sec. 28: N½; [2 4 11]
Sec. 29: S½NE¼, S½NW¼, N½SE¼, N½SW¼, SW¼SW¼; [4 5 11]
Sec. 30: Lots 2, 3, 4, SE¼NE¼, E½SE¼; [4 5 11]
Sec. 31: Lots 1, 2; [11]
Sec. 32: SE¼SE¼; [1]
Sec. 33: E½NE¼, S½SW¼, NE¼SE¼, S½SE¼; [2 11]
Sec. 34: NE¼, S½. [2 11 36]

T. 3 S., R. 4 W.,
Sec. 2: Lots 1, 2, 3, 4, S½N½, S½; [1 2 11]
Sec. 3: Lots 1, 3, 4, SE¼NE¼, S½; [1 2 11]
Sec. 10: N½, SE¼; [1 11 20]
Sec. 11: Lots 1-15 incl., 25, 26, 27, 30-35 incl., 37-42 incl., 45, 46, 47, 64, 66-70 incl., 74-78 incl., 81-86 incl., N½NE¼, S½SE¼SW¼; S½S½SE¼; [1 11]
Sec. 12: S½SW¼SW¼, [1 4, 2 11 35]
Sec. 13: W½NW¼; W½SW¼; [12 11]
Sec. 14: N½N½N½NW¼; [1 11]
Sec. 23: NE¼, W½SE¼; [12 11]
Sec. 24: W½NW¼; [111 35]
Sec. 26: Lots 2-6 incl., 11-14 incl; [1 11 21 22]
Sec. 27: NE¼; [1 2 3 11]
Sec. 34: Lots 1-16 incl; [11]
Sec. 35: Lots 3-6 incl., 11-14 incl; [1 11 22 35]

T. 4S., R. 4W.,
Sec. 2: Lots 3, 4, SW¼NW¼, W½SW¼; [1 11 22 23]
Sec. 3: S½; [6 11 24]
Sec. 10: E½; [1 11]
Sec. 11: W½W½; [111 35]
Sec. 14: W½W½, W½E½SW¼; [1 11]
Sec. 23: W½E½NW¼, W½NW¼, W½NE¼, SW¼, W½SW¼, SE¼SW¼; [1 11 13 26 27]
Sec. 26: W½; [1 13 35]
Sec. 35: W½; [1 13]

T. 5 S., R. 4 W.,
Sec. 2: Lots 5-36 incl., S½NE¼, S½NW¼, S½; [1 2 13]

T. 2 S., R. 5 W.,
Sec. 23: SE¼SW¼SW¼, SW¼SE¼SW¼; [11]
Sec. 25: S½N½, S½; [4 5 11 35]
Sec. 26: S½NE¼, N½NW¼, SE¼NW¼, E½SE¼; [4 5 11]
Sec. 27: N½NE¼, E½NE¼NW¼; [2 11]

Application A-15986

Gila and Salt River Meridian, Arizona

T. 5 S., R. 4 W.,
Sec. 16: N½, NW¼SW¼, S½SW¼, SE¼; [1 6 13]
Sec. 27: All; [2 7 13]
Sec. 28: Lot 2; [1 2 13]
Sec. 33: N½NE¼; [2 7, 13, 30]
Sec. 34: All. [2 7 13 34 35]

T. 6 S., R. 4 W.,
Sec. 3: Lots 1-4 incl., S½N½, E½SW¼, SE¼; [1 13 29 36]
Sec. 4: Lots 1, 2, S½NE¼; [6 13 30 36]
Sec. 8: NE¼, W½SE¼; [1 36]
Sec. 9: All; [1, 10, 35]
Sec. 10: All. [1 8 13 29]

T. 6 S., R. 5 W.,
Sec. 12: N½SW¼; [1 8 13 31 32 33]

Footnotes correspond to numbered authorized users or applicants listed in Paragraph 6.

The area described totals approximately 21,818.24 acres of public land.

6. The following listed individuals and corporations are holders of valid leases, permits and/or rights-of-way on the public lands described in Paragraph 5 above:

FOOTNOTES

[1] Arizona Department of Transportation, 205 South 17th Avenue, Phoenix, AZ 85007: R/W PHX-086803, R/W AR-03868, R/W AR-05251, R/W AR-05377, R/W AR-05795, R/W AR-05797, R/W AR-05799, R/W AR-07393, R/W AR-07749, R/W AR-010087, R/W AR-010883, R/W AR-010884, R/W AR-012069, R/W AR-017451, R/W AR-017897, R/W AR-034741, R/W A-6937.

[2] Arizona Public Service, P.O. Box 21666, Sta. 3172, Phoenix, AZ 85036: R/W PHX-080356, R/W AR-04861, R/W AR-012876, R/W AR-017168, R/W AR-019693, R/W AR-020901, R/W AR-035243, R/W A-6712, R/W A-8920, R/W A-9002.

[3] Mountain States Tel. & Tel., R/W Department, 3033 North 3rd Street, Room 806-A, Phoenix, AZ 85012: R/W PHX-013039, R/W AR-032095, R/W A-11068.

[4] El Paso Natural Gas: Box 1492, El Paso, Texas 79978: R/W PHX-083253, R/W PHX-086067, R/WAR-013610, R/W AR-020310, R/W A-4287, R/W A-6474.

[5] Salt River Project, P.O. Box 1980, Phoenix, AZ 85001: R/W A-10350.

[6] Paloma Ranch Joint Venture, C/O Rawlins, Ellis, 2300 Valley Bank Center, Phoenix, AZ 85073: R/W PHX-086674.

[7] Southern Pacific Transportation Co., One Market Street, San Francisco, CA 94105: R/W PHX-086521.

[8] U.S. Army Corps. of Engineers, 2721 N. Central, Suite 1010, Phoenix, AZ 85004: R/W AR-030222, R/W AR-031035.

Grazing Leaseholders

[9] Palomas Division of Cranco, Star Route 1, Box 175, Gila Bend, AZ 85337.

[10] Ernie Jordan; 117 North Capitol, Gila Bend, AZ 85337.

[11] James Parker, Box 265, Star Route, Buckeye, AZ 85326.

[12] Art Arnold, Box 283E, Star Route, Buckeye, AZ 85326.

[13] Jolley Cattle Co., 5822 South Country Club Way, Tempe, AZ 85283.

Range Improvements

[14] Fence No. 1914.
[15] Fence No. 0053.
[16] Fence No. 2220.
[17] Tank No. 2133.
[18] Tank No. 2221.
[19] Tank No. 2134.
[20] Tank No. 4511.
[21] Corral No. 1189.
[22] Pipeline No. AR-035807.
[23] Corral No. 1193.

[24] Pipeline No. 2154.
[25] Fence No. 211.
[26] Fence No. 109-52.
[27] Fence No. 1248.
[28] Fence No. 0749.
[29] Fence No. 3509.
[30] Fence No. 0749.
[31] Fence No. 1102.
[32] Well, No. AR-034282 (564).
[33] Corral, No. 4140.

Oil and Gas Leases and Applications

[34] Mormac Oil & Gas, Suite 100, Mormac Building, 321 Texan Trail, Corpus Christi, TX 78411: A-11142; Tipperaty Oil & Gas Corp., Box 3179, Midland, TX 79712: A-11143.
[35] Harry H. Cullen, Box 3331, Houston, TX 77001: A-15079, A-15080, A-15107, A-15110, A-15111, A-15112.
[36] Knight Royalty Corporation, Great West Life Tower, 1675 Broadway, Suite 1910, Denver, CO 80202: A-15191, A-15192, A-15194.

William K. Barker,

District Manager.

January 29, 1981.

[FR Doc. 81-4375 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

[N-30966]

Nevada; Proposed Withdrawal of Lands January 29, 1981.

On January 13, 1981 the Assistant Secretary, Land and Water Resources granted the Bureau of Land Management permission to file an application, Serial No. N-30966, for the withdrawal of the following described lands from the operation of the public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights:

Mount Diablo Meridian

T. 38 N., R. 42 E.,
Sec. 6, N½SW¼NE¼, SW¼NW¼NE¼, SE¼NW¼N¼, NE¼NW¼NE¼.
T. 39 N., R. 42 E.,
Sec. 31, SE¼SW¼SE¼.

The area described contains approximately 60 acres of public land in Humboldt County, Nevada.

The applicant desires the withdrawal to protect the critical habitat of the endangered plant species Osgood Mountains milk-vetch *(Astragalus yoder-williamsii)* to insure the continued existence of the species until the Bureau's ACEC (Area of Critical Environmental Concern) study is completed.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below within 30 days from the date of publication of this notice. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that 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 lands and their resources. He will also review the application to insure that the area to be withdrawn is the minimum essential to meet the desired needs and to provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the **Federal Register.**

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the lands will be segregated from location and entry as specified above unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 81-4377 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

[W-73392]

Wyoming; Invitation for Coal Exploration License; Sohio Western Mining Company

January 28, 1981.

Sohio Western Mining Company hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally owned coal underlying the following-described land in Campbell County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 52 N., R. 72 W.,
Sec. 6, Lots 1-7, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, Lots 1-4, E½, and E½W½;
Sec. 18, Lots 1-4, E½, and E½W½;
Sec. 19, Lots 1-4, E½, and E½W½;
Sec. 30, Lots 1-4, E½, and E½W½;
Sec. 31, Lots 1-4, NE¼, E½W½, and N½SE¼.
T. 53 N., 72 W.,
Sec. 31, Lots 1-4, SW¼NE¼, E½W½, and SE¼;
Sec. 32, All.
T. 52 N., R. 73 W.,
Sec. 1, Lots 1-4, S½N½, and S½;
Sec. 12, N½, E½SW¼, and SE¼;
Sec. 13, NE¼, and NE¼NW¼;
Sec. 24, SE¼;
Sec. 25, E½.

Containing 6,725.07 acres.

All of the coal in the above lands consists of unleased Federal coal within the Powder River Basin Known Recoverable Coal Resource Area. The purpose of the exploration program is to provide sufficient geologic data to define quantity, quality and mineability of coal within the boundaries of the above-described area.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number W-73392): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001, and the Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

This notice of invitation will be published in this newspaper once each week for two (2) consecutive weeks beginning the week of February 9, 1981, and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Sohio Western Mining Company no later than thirty (30) days after publication of this invitation in the **Federal Register.** The written notices should be sent to the following addresses: Sohio Western Mining Company, 6825 East Tennessee Avenue, Suite 300, Denver, Colorado 80224, and the Bureau of Land Management, Wyoming State Office, Attention: Lands and Mining Section, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing notice is published in the **Federal Register** pursuant to Title 43 of the Code of Federal Regulations, § 3410.2-1(d)(1).

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-4378 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

[1784 [N-060.1]]

Battle Mountain District Office; District Advisory Council Meeting

The Battle Mountain District of the Bureau of Land Management, in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 (FLPMA), will convene a multiple-use Advisory Council meeting on February 25, 1981 at 10:00 a.m. in the Shoshone-Eureka conference room of the Battle Mountain District Office in Battle Mountain, Nevada.

Members of the public are welcome to make oral comments after 2:30 p.m. Please contact the authorized officer, Michael C. Mitchel, Acting District Manager, if you plan to speak for more than ten minutes.

Agenda

10:00 a.m.–10:30 a.m. District Manager's opening remarks
10:30 a.m.–11:15 a.m. Bald Mountain wild horse round-up
11:15 a.m.–11:30 a.m. Introduction to the Shoshone-Eureka Resource Management Plan (RMP)
11:30 a.m.–1:00 p.m. Lunch Break
1:00 p.m.–2:30 p.m. Shoshone-Eureka RMP, identification of issues, planning criteria
2:30 p.m.–2:35 p.m. Break
2:35 p.m.–3:00 p.m. Public Comment
3:00 p.m.–4:00 p.m. Management Framework Plan decisions for the Tonopah Resource Area
4:00 p.m.–4:30 p.m. District Manager's closing remarks

For more information, please contact the authorized officer, Michael C. Mitchel, Acting District Manager, at the following address: Bureau of Land Management, Battle Mountain District Office, P.O. Box 194, 2nd and Scott Streets, Battle Mountain, Nevada 89820, Telephone: (702) 635–5181.

Dated: January 30, 1981.

Michael C. Mitchel,

Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 81–4372 Filed 2–5–81; 8:45 am]

BILLING CODE 4310–84–M

California Desert District; Mecca Hills Recreation Management Area

AGENCY: Bureau of Land Management.

ACTION: Proposed Recreation Vehicle Designations and Facilities Improvements.

SUMMARY: The proposed vehicle designations have been developed to reduce user conflicts in the Mecca Hills Area. The authority for the management plan's facilities, vehicle designations, and rules are 43 CFR Section 8000.0–6, 8340, 8341, 8342, and 8364. The area affected by these designations is known as the Mecca Hills Recreation Area which is located in central Riverside County. The area contains approximately 41,000 acres, approximately 20,000 are managed by BLM. These designations are a result of two draft plans developed with extensive public involvement over a period of two years.

DATE: Effective February 30, 1981.

ADDRESS: Send inquiries to Area Manager, Indio Resource Area, 3623 H101 Canyon Crest, Riverside, California, 92507. Public comments received and copies of the Mecca Hills Recreation Management Plan containing maps which show vehicle designations will be available for public review at the above address from 7:45 a.m.–4:15 p.m. on regular work days.

FOR FURTHER INFORMATION CONTACT: Pamela M. Elliott, (714) 787–1630.

Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), E.O. 11644 (Use of Off Road Vehicles on the Public Lands), and 3 CFR 74, 332 as amended by E.O. 11989, 42 FR 26959 (May 25, 1977).

Visitor Management

1. Vehicles may be used only in the area designated "Existing Roads and Ways" and only on routes within this area in existence prior to November 1, 1973. The designated area will be defined on a map provided on informational structures (kiosks) located in four sites in the recreational area.

2. Hidden Springs Oasis will be closed to vehicles year round.

3. The area designated as "Seasonal Closure" will be closed to vehicles from June 1 through September 30. Signs will be erected to notify users of the boundary of this closure. A map defining the area will be posted on information structures (kiosks).

4. A corridor into Painted Canyon will provide access to the campground and beyond to a barricade closure in the canyon approximately 1 mile above the campground. No vehicle access will be allowed above the barricade or outside of the corridor.

Facilities Proposed

1. A primitive campground in T. 6 S., R. 9 E., Section 36 is proposed in Painted Canyon. The facility will include five ramadas and picnic tables, renovation of an existing pit-toilet bathroom and placement of an informational kiosk. Implementation of this action is dependent upon acquisition of this land by BLM.

2. A primitive campground area in Box Canyon at T. 7 S., R. 10 E., Section 6 will be constructed and will provide a pit-toilet bathroom and informational kiosk.

3. Informational kiosks will be placed at two other locations in Box Canyon (T. 7 S., R. 10 E., Section 7 and T. 6 S., R. 9 E., Section 26).

4. Signs will be erected to designate the seasonal closure.

The purpose of these vehicle designations and improvements are to minimize conflicts between recreational uses in the Mecca Hills, to increase user enjoyment by providing facilities and interpretive information and to protect sensitive resources.

The public lands in the seasonal vehicle closure will remain open to other resource and recreation use. Administrative access by vehicle into areas closed to vehicular recreation is allowed for BLM and BLM contractors, licensees, permittees, lessees, and all other Federal, State, and County employees when on official duty. Permission to enter areas closed to vehicular recreation by other people is subject to approval by the authorized officer.

Effective Date: February 30, 1981.

Signed at Riverside, California on January 28, 1981.

Bruce Ottenfeld,

Acting District Manager, California Desert District, Bureau of Land Management.

[FR Doc. 81–4373 Filed 2–5–81; 8:45 am]

BILLING CODE 4310–84–M

Cassia Resource Management Plan

AGENCY: Bureau of Land Management.

ACTION: Notice of intent to prepare Resource Management Plan and Environmental Impact Statement for public lands in Cassia County, Idaho.

SUMMARY: Pursuant to 43 CFR 1600 the Burley District, Bureau of Land Management, is initiating a Resource Management Plan (RMP) covering approximately 504,000 acres of public land in Cassia County, Idaho. The subject RMP will analyze resource management alternatives ranging from production to protection including maintenance of the status quo and is scheduled for completion in mid 1984. The Burley District invites members of the public, other Federal agencies, State and local government and Indian Tribes to identify resource management issues and opportunities to be considered during preparation of the Cassia RMP.

Meetings to facilitate issue or opportunity identification will be held at: (1) Raft River High School, Malta, Idaho, March 3, 1981, at 6:50 p.m. MST; (2) Burley City Council Chambers,

Burley, Idaho, March 4, 1981 at 6:50 p.m. MST; and (3) Oakley High School, Oakley, Idaho, March 5, 1981 at 6:50 p.m. MST. All concerned parties are invited to participate by attending one of these meetings.

DATES:

March 3, 1981—meeting in Malta, Idaho.
March 4, 1981—meeting in Burley, Idaho.
March 5, 1981—meeting in Oakley, Idaho.

ADDRESS: Written comments regarding resource management issues or opportunities for the Cassia RMP should be sent to: BLM Burley District Office, Route 3, Box 1, Burley, ID 83318.

FOR FURTHER INFORMATION CONTACT: Nick James Cozakos, District Manager, BLM Burley District Office, Route 3, Box 1, Burley, ID 83318 (208–678–0227).

K. Lynn Bennett,

Acting District Manager.

January 30, 1981.

[FR Doc. 81–4374 Filed 2–5–81; 8:45 am]

BILLING CODE 4310–84–M

[Serial Nos. I–15334, I–15336, I–08047]

Idaho; Hearing on Proposed Public Land Withdrawal Continuations

January 30, 1981.

Notice is hereby given that a public hearing will be held at 2:00 p.m. and 7:00 p.m., Thursday, March 19, 1981, at the former district court room in the Bonneville County Court House in Idaho Falls, Idaho, pertaining to the request by the Department of Energy to continue, unchanged, the Idaho National Engineering Laboratory withdrawals (I–15334, I–15336, I–08047) for a period of 100 years. The withdrawals involve several townships of public land located west and northwest of Idaho Falls in the Arco Desert. The land is closed to all forms of appropriation, including entry under the mining and mineral leasing laws. The continuations would permit present and future nuclear research and development activities to continue.

The withdrawals are being reviewed by the Bureau of Land Management as required by Section 204 of Pub. L. 94–579, dated October 21, 1976. The review is being made to insure that the proposed continuations 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 current management of the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and, if so, for how long. The existing withdrawals will continue until a final determination is published in the **Federal Register.**

The thirty-eight townships involved in the withdrawals are described as follows:

Boise Meridian

T. 2 N., R. 28–32 E.
T. 3 N., R. 28–34 E.
T. 4 N., R. 28–34 E.
T. 5 N., R. 29–34 E.
T. 6 N., R. 30–34 E.
T. 7 N., R. 30–33 E.
T. 8 N., R. 30–33 E.

More specific legal descriptions showing the sections and section subdivisions involved in each township may be examined by the public during regular working hours at the Idaho Falls BLM District Office or at the Idaho BLM State Office in Boise. The public land withdrawn in the described townships is approximately 504,000 acres.

The hearing will be open to attendance of proponents of the withdrawal continuation who may explain its purpose, intent, and extent, and to all interested persons who desire to be heard on the subject. Testimony will be limited to comments concerning the length of time the withdrawals will be continued, whether all of the lands withdrawn are needed for present and future research programs, and to what extent multiple-use activities can be accommodated within the withdrawal boundaries. The question of whether nuclear research and development activities should or should not be continued is not at issue. A time limit may be placed upon each person's testimony, depending upon the number of people that desire to make oral statements. Those who desire to be heard in person at the hearing and those who desire to submit written statements should file notice thereof not later than March 10, 1981, with the State Director, Bureau of Land Management, Federal Building, Box 042, 550 West Fort Street, Boise, Idaho 83724.

Robert O. Buffington,

State Director.

[FR Doc. 81–4376 Filed 2–5–81; 8:45 am]

BILLING CODE 4310–84–M

Vernal District, Utah; Amendments to Bonanza, Bookcliffs, Hill Creek and Rainbow Management Framework Plans

In accordance with Pub. L. 94–579, and 43 CFR 1601.3(g), the Vernal District Office is proposing to amend the Management Framework Plans (MFPs) for four Planning Units in northeastern Utah. The Bonanza, Bookcliffs, Hill Creek and Rainbow MFPs would be amended to include oil shale leasing, and the Bonanza MFP would also be amended to include a Wilderness Study Area. Leasing is tentatively scheduled for December of 1982.

Public meetings to explain the proposal and obtain comments concerning issues and data sources will be held as follows:

February 24, 1981: Salt Lake City, Utah, BLM, University Club Building, 13th Floor, 136 East South Temple Street, 7:00 p.m.

February 25, 1981: Vernal, Utah, BLM, 170 South 500 East, 7:00 p.m.

Additional meetings will be held at the following locations to discuss a similar proposal by Craig District Office, BLM, to amend the MFP for the White River Resource Area in northwestern Colorado:

February 26, 1981: Rangely, Colorado, Municipal Building, 209 East Main, 7:00 p.m.

March 3, 1981: Denver Auditorium, Main Post Office Building at 18th and Stout Streets, 1:30 p.m. Lakewood, Colorado, Ramada Inn Foothills, 11595 West 6th Avenue, 7:00 p.m.

March 4, 1981: Grand Junction, Colorado, BLM, 764 Horizon Drive, 7:00 p.m.

March 5, 1981: Meeker, Colorado, Fairfield Center, 200 Main, 7:00 p.m.

Oral comments will be received at the meetings. Written comments for the Utah meetings should be received by March 13, 1981, c/o Dean Evans, BLM, Bookcliffs Area Manager, 170 South 500 East, Vernal, Utah 84078. Comments will be used to determine the scope and type of analysis needed for the amendments and subsequent Environmental Impact Statement.

The objective of oil shale amendments to the MFPs is to consider further leasing of BLM administered land for oil shale development. Public comments are solicited to assist in developing alternatives ranging from no action to the active leasing of additional oil shale tracts.

The Wilderness Study Area being considered in the amendment process is Bull Canyon, Number UT–080–419, and consists of 520 acres in the Vernal, Utah District and 11,777 acres in the Craig, Colorado District. In amending the MFP for wilderness, public comments are solicited to assist in developing a range of possible alternative management plans ranging from managing the area for mineral development to managing the area for wilderness.

The Bonanza, Bookcliffs, Hill Creek and Rainbow Planning Units are located in northeastern Utah within Uintah County. Together, they comprise 987,688 acres, 78% of which is administered by BLM, with the remainder State and privately owned. The Planning Units are bounded on the east by the State of Colorado, on the south by Grand County, on the northwest by the Green River, and on the north by the southern rim of Blue Mountain, near U.S. Highway 40.

The issues which have been tentatively identified at this time and will be addressed in the plans are: (1) Energy Resource Development, (2) Wilderness, (3) Endangered Species, (4) Range and Woodlands, (5) Wild Horse Management, (6) Wildlife Habitat, (7) Archaeological and Historical Resources, (8) Water Resources, (9) Rights of Way and Access, (10) Recreation, (11) Socio-economics, (12) Air Quality, and (13) Transportation.

The disciplines to be represented on the interdisciplinary team are: Wilderness, Sociology, Economics, Land Use, Air Quality, Geology, Soils, Hydrology, Cultural Resources, Vegetation, Wildlife, Recreation, and Transportation.

Public participation activities will take place throughout the amendment process; during identification of issues; comment on planning criteria; upon publication of a draft environmental impact statement; upon publishing the final EIS which is followed by the protest period and a public notice of any significant change made to the plan as a result of a protest.

FOR FURTHER INFORMATION CONTACT: Dean Evans, Bookcliffs Area Manager, BLM Vernal District Office, 170 South 500 East, Vernal, Utah 84078 or telephone (801) 789-1362. Documents relevant to the planning process can be examined at the Vernal District Office during regular hours, 8:00 a.m. to 5:00 p.m.

Lloyd H. Ferguson,

District Manager.

January 30, 1981.

[FR Doc. 81-4371 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit, Emergency Exemption; Import of Imperial Parrot and St. Vincent Parrot

On January 30, 1981, a letter waiving the 30 day public comment period required prior to issuance of a permit was issued to Dr. Thomas D. Nichols, San Antonio, Texas, authorizing emergency actions to enhance the survival of one Imperial parrot (*Amazona imperialis*) and one St. Vincent's parrot (*A. guildingii*). This waiver was granted to allow the issuance of Endangered Species Permit PRT 2-7515 to import the birds for tumor surgery, treatment and care.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist and that the health and well-being of the birds are threatened and that no reasonable alternitve to the proposed action is available to the applicant.

A copy of the letter of waiver is herewith presented. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended by Pub. L. 95-632 (92 Stat. 3751).

Dated: January 30, 1981.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 81-4449 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-55-M

Office of the Secretary

Quechan Indian Reservation Boundaries; Secretarial Determination and Directives

AGENCY: Department of the Interior.

ACTION: Notice of secretarial determination and directives.

SUMMARY: This is a notice of the determination by the Secretary of the Interior of the boundaries of the Fort Yuma, Quechan Indian Reservation and directives necessitated by that determination.

EFFECTIVE DATE: February 6, 1981.

FOR FURTHER INFORMATION CONTACT: Paul Truesdell, Bureau of Indian Affairs, Trust Protection Unit, Department of the Interior, Room 704, 3030 North Central Avenue, Phoenix, Arizona 85013. Telephone: 241-2310.

SUPPLEMENTARY INFORMATION: On December 20, 1978, the Secretary of the Interior issued a Secretarial decision recognizing the 1884 Executive Order boundary of the Fort Yuma Indian Reservation as modified by the Executive Order of December 19, 1900, as the present reservation boundary. That decision provided for the protection of third-party rights on the Reservation. When the decision was published, a complete list of third-party rights had not been compiled. Third parties were notified and requested to submit claims for valid existing rights. A complete list has now been compiled. The Department of the Interior is, therefore, publishing this Notification of Secretarial Determination and Directives in final form.

Note.—The Department of the Interior has determined that this Notice does not constitute a major federal action significantly affecting the quality of the human environment.

James G. Watt,

Secretary of the Interior.

Secretarial Determination and Directives

Subject: Quechan Indian Reservation Boundaries.

Sec. 1. Solicitor's Opinion

On December 20, 1978 the Solicitor signed an Opinion recognizing that the 1884 Executive Order boundary of the Fort Yuma Indian Reservation, as modified by the Executive Order of December 19, 1900, which revoked the portion of the reservation lying south of the Colorado River in the then Territory of Arizona, still remains the reservation boundary. Said Opinion was approved by the Secretary of the Interior on December 20, 1978. A map entitled "Fort Yuma Indian Reservation 1884-1974, revised September 1974 S.D.T.," depicting the general location of the Reservation boundary today is on file in the office of the Area Director, Arizona Bank Building, 3030 N. Central Avenue, Phoenix, Arizona 85013. The exact location of the Reservation boundary shall be determined hereafter by survey in accordance with the boundaries recognized by this Notice of Secretarial Determination and Directives (Notice).

Sec. 2. Recognition of Trust Status of Lands

Except as hereinafter stated, all lands which prior to December 20, 1978, were managed under the jurisdiction of the Bureau of Land Management or the Bureau of Reclamation [1] and which the map referrd to in Section 1 indicates are within the Fort Yuma Indian Reservation (hereafter referred to as "such lands") are hereby recognized as being held in trust by the United States for the Quechan Tribe of the Fort Yuma Indian Reservation as of January 9, 1884.

Sec. 3. Exceptions and Conditions

The Solicitor's Opinion holds that an 1893 Agreement ratified by an 1894 statute providing for allotment of certain lands on the Fort Yuma Reservation and cession to the United States of other reservation lands was subject to conditions that were never carried out. Although the Solicitor's Opinion holds

[1] In order to maintain consistency with the Secretarial order of December 20, 1978, the Water and Power Resources Services is referred to as the Bureau of Reclamation throughout this notice.

that the cession provided for in the Agreement and statute did not take place, and that Reservation lands which would have been ceded in that statute and which were not later taken pursuant to the 1904 statute, remain in tribal ownership, the Solicitor's Opinion also holds that (1) pursuant to statutes predating 1884, certain valid rights were acquired by third parties that are protected by the Executive Order; (2) pursuant to later statutes, various Reclamation project works were validly constructed on the Reservation; and (3) other valid grants and grants which would have been valid had the lands been public lands were made by agencies of the United States to third parties. Accordingly, reaffirmation and recognition of the Tribe's title in such lands is subject to the exceptions and conditions set forth in this Section 3.

a. There is hereby excepted from the provisions and effect of Section 2 herein all rights of third parties created by or pursuant to Acts of Congress including but not limited to the Act of July 26, 1866, 14 Stat. 289, and the Act of March 3, 1871, 16 Stat. 573, and predating the Executive Order establishing the Reservation in 1884.

b. All rights of third parties to such lands within the now-recognized reservation boundaries which were established pursuant to law prior to December 20, 1978, including but not limited to existing permits, leases, rights-of-way and other non-fee rights and interests, including those generally described in subparagraphs (1)–(44) following (and more particularly described in the cited instruments):

(1) LBR Contracts Nos. 14–06–303–3736, –3737, –3738, –3739, –3740, –3741, –3742, –3743, –3744, –3745, –3746 and –3747, all dated January 1, 1977, consisting of leases for agricultural purposes to various individuals and corporations.

(2) LBR Contract No. 7–07–34–L0026 dated April 15, 1977, issued to Ned Foss for livestock grazing and feeding purposes.

(3) Bureau of Land Management Agricultural Permits, BLM Serial Nos. 1C–1(A), 1C–2(A), 1C–3(A), 1C–5(A), 2C–3(A), 2C–4(A), 2C–5(A), 2C–6(A), 2C–9(A), 2C–14(A), 2C–15(A), 2C–32(A), 2C–35(A), 2C–37(A).

(4) Bureau of Land Management Temporary Residential Permits, BLM Serial Nos. 1C–9(R), 2C–38(R), 2C–41(R), 2C–42(R), 2C–43(R), 2C–44(R), 2C–45(R), 2C–46(R), 2C–48(R), 2C–51(R), 2C–58(R), 2C–CM–4(R), 2C–CM–5(R), 2C–LD–5.

(5) LBR Contract No. 14–06–300–960 issued to California Electric and Power Company on October 6, 1959, for a transmission line.

(6) LBR Contract No. 14–06–303–1330, executed December 5, 1957, and 14–06–303–1412, executed May 9, 1958, consisting of licenses issued to the Pacific Telephone and Telegraph Company for telephone and telegraph line rights-of-way within and across Bureau of Reclamation levee and canal rights-of-way.

(7) LBR unnumbered contract issued April 5, 1961, for an indefinite period, consisting of license issued to Pacific Telephone and Telegraph for a public phone booth.

(8) LBR Contract Nos. 14–06–303–1119, –1120, –1122, executed July 3, 1956, consisting of licenses issued to Southern Pacific Pipelines, Inc., for a petroleum products pipeline right-of-way within and across Bureau of Reclamation canal lateral and drain rights-of-way.

(9) LBR Contract Nos. I–24–R–635, I–24–R–678, dated June 4, 1951, issued to Imperial County for the removal of sand, gravel and road materials.

(10) LBR No. 7–07–34–L0068, dated September 21, 1977, consisting of a license issued to the County of Imperial, California, for a refuse disposal dump.

(11) LBR Contract No. 14–06–300–2283, issued to the State of Arizona for fish and wildlife management at Mittery Lake.

(12) LBR No. 14–06–303–3748, dated January 1, 1977, consisting of a lease to Gladys Reynolds, for a mobile home park.

(13) BLM Permit No. R03272 for a right-of-way for Upper and Lower Reservation levees, issued May 31, 1963, pursuant to § 4(p) of the Act of December 5, 1924 (43 Stat. 7042; 43 U.S.C. § 417).

(14) BLM Permit No. R1278 for a right-of-way for a drainage ditch, issued December 19, 1968, pursuant to § 4(p) of the Act of December 5, 1924 (43 Stat. 704).

(15) BLM Serial No. R05651 right-of-way as specified in BLM decision of August 25, 1964, for a transmission line.

(16) BLM Permit No. LA077775 for a right-of-way for the All-American Canal including appurtenant structures and operating telephone line, issued pursuant to § 4(p) of the Act of December 5, 1924 (43 Stat. 704; 43 U.S.C. § 417).

(17) BLM Permit No. LA055185 for a right-of-way for "Gila drop #4" power transmission line and access road, approved July 23, 1942, pursuant to Act of December 5, 1924 (43 Stat. 672); amended May 19, 1971.

(18) BLM Permit Nos. 732756KELV, 75022–07 and 12271–22 issued to various denominations as mission sites by Departmental Authority of June 8, 1921.

(19) BLM Serial No. LA0164553, right-of-way grant to Imperial Irrigation District, as specified in BLM decision of August 13, 1964, for an electrical transmission line.

(20) BLM Serial No. R2331, right-of-way granted to the California Division of Highways, as specified in BLM decision of June 2, 1970, as amended April 25, 1973, and May 29, 1975, for Interstate Route 8.

(21) BLM Serial No. LA0153552, right-of-way granted to Southern Pacific Pipe Lines, Inc., as specified in BLM decision of December 16, 1930, for a highway.

(22) BLM Serial No. LA0164552, right-of-way grant to the Imperial Irrigation District, as specified in BLM decision of November 10, 1960, as amended December 5, 1960, for an electric transmission line.

(23) BLM Serial No. S3484, right-of-way grant to the Southern Pacific Transportation Company, approved February 10, 1910.

(24) BLM Serial No. S3488, right-of-way grant to the Southern Pacific Railroad, approved December 18, 1928, for station grounds.

(25) BLM Serial No. S3450, right-of-way grant to the Southern Pacific Railroad, approved June 18, 1907.

(26) BLM Serial No. S3441, amended right-of-way grant to the California Highway Commission approved October 10, 1927, for a highway.

(27) BLM Serial No. R2704, right-of-way granted to the Supervisors of Imperial County and the State of California, approved on October 24, 1930, noted in General Land Office letter 1396492 "F" IHC of December 16, 1930, for a highway.

(28) BLM Serial No. S3430, right-of-way granted to Southern Pacific Railroad Company by the Act of March 3, 1871, 16 Stat. 573, and confirmed by Section 17 of the Act of August 15, 1894, 28 Stat. 335, for a railroad.

(29) BLM Serial No. R0329, right-of-way grant to the Imperial Irrigation District, as specified in BLM decision of April 9, 1962, for Imperial Laguna Drain No. 2.

(30) BLM Serial No. S3490, right-of-way, approved August 12, 1926, under Act of April 21, 1904 (33 Stat. 224), for transmission line.

(31) BLM Serial No. LA050409, right-of-way, approved July 26, 1932, to the California Highway Commission for relocation of an irrigation canal.

(32) BLM Serial No. CA2720, right-of-way, issued August 1, 1975, to the Imperial Irrigation district for electric distribution line.

(33) BLM Serial No. LA051577, right-of-way, approved March 15, 1934, to the

Southern California Telephone and Telegraph Company for a telephone line.

(34) BLM Serial No. R01909, right-of-way, approved October 12, 1955, under Act of February 4, 1948, 25 CFR 256, for Drain Line No. 9.

(35) BLM Serial No. R551, right-of-way, noted on April 17, 1967, under Act of December 5, 1924 (43 Stat. 704; 43 U.S.C. § 417), for Upper Reservation Levee, as amended February 28, 1973.

(36) BLM Serial No. LA039464, approved August 24, 1939, to Imperial Irrigation District for a power transmission facility.

(37) BLM Serial No. R137, right-of-way grant to the State of California, Division of Highways, approved by decision of February 7, 1969, for Interstate Highway 8.

(38) LBR Contract Nos. 14–06–303–623, executed April 16, 1954, and 14–06–303–1435, executed August 18, 1958, consisting of easements granted to the County of Imperial for roadway and bridge rights-of-way across LBR Canal and drain rights-of-way.

(39) LBR Contract No. 14–06–303–2683, executed December 22, 1967, consisting of a license issued to the County of Imperial for use and maintenance of road crossings on certain structures across the All-American Canal.

(40) LBR Contract No. 14–06–303–2768, executed February 26, 1970, granting to the State of California the right to construct, reconstruct, operate and maintain highway bridges and a highway across the right-of-way reserved for the All-American Canal.

(41) LBR Contract No. 14–06–300–149, consisting of an easement granted to the Imperial Irrigation District on February 19, 1954, (BLM Serial No. R 01908) for the Pilot Knob Power Plant.

(42) BLM Serial No. LA048474, right-of-way to the Imperial Irrigation District, approved December 6, 1930, for poles and transmission line.

(43) 60-foot wide easement along the International boundary reserved by Presidential Proclamation of May 27, 1907, for purposes of patrol and inspection by the United States Immigration and Naturalization Service.

(44) Two powerline extensions into Section 29, T.16S., R.22E. SRM authorized by the March 13, 1967, and April 1, 1966 letters from the Lower Colorado River Land Use Office to cover electric distribution lines to pumps on BLM agricultural permits 1C–1(A) and 1C–3(A).

c. There is hereby excepted from the provisions and effect of Section 2 hereof all rights and interests in lands in the so-called Bard area, including non-contiguous parcels, opened to private settlement pursuant to Section 25 of the Act of April 21, 1904 (33 Stat. 189, 224), including all lands in the Bard area heretofore patented prior to December 20, 1978 pursuant to the Reclamation Law of 1902 and acts amendatory and supplementary thereto and the Act of March 31, 1950, 64 Stat. 39.

As to all rights-of-way listed above which are not on lands listed in Paragraph d of this Section as fee lands of the United States not held in trust for the Quechan Tribe and which were issued under the assumption that the lands involved were not Indian lands, I hereby grant a right-of-way pursuant to the authority vested in me by the Acts of February 5, 1948, 62 Stat. 17, 25 U.S.C. 323–28, each such grant being for the unexpired term of the original grant and subject to precisely the same terms and conditions as contained in the original grant. The Tribe has given its consent to these grants in Resolution R–19–77 dated September 29, 1977, and Resolution R–1–81 dated January 13, 1981, and pursuant to 25 CFR 1.2, I hereby waive the requirements of 25 CFR part 161 pertaining to these rights-of-way, since I find that such waiver is in the best interest of the Quechan Tribe.

As to all other permits, leases and other non-fee rights and interests listed above which are not on lands listed in Paragraph d of this Section as fee lands of the United States not held in trust for the Quechan Tribe, and which were issued under the assumption that the lands involved were not Indian lands, the Tribe has authorized and consented to issuance of such permits, leases and other non-fee rights and interests in Tribal Resolution R–19–77 dated September 29, 1977, and Tribal resolution R–1–81 dated January 13, 1981, and I hereby approve the same, pursuant to authority contained in the Act of May 11, 1938, c. 198, Section 1, 52 Stat. 347, 25 U.S.C. 396a, the Act of August 15, 1894, c. 290, Section 1, 28 Stat. 305, 25 U.S.C. § 402, the Act of July 3, 1926, c. 787, 44 Stat. 894, 25 U.S.C. 402a, and the Act of August 9, 1955, c. 615, Section 1, 69 Stat. 539, 25 U.S.C. 415, and each such permit, lease or other right or interest being for the unexpired term and subject to precisely the same terms and conditions specified in the original instrument. Pursuant to 25 CFR 1.2, I hereby waive the requirements of 25 CFR Parts 131, 151 and 171 pertaining to these permits, leases and other rights and interests since I find that such waiver is in the best interest of the Quechan Tribe.

d. There is hereby excepted from the provisions and effect of Section 2 hereof, fee title in the United States without being held in trust for the Quechan Tribe to the works and appurtenances, including but not limited to the works described in the following subparagraphs 1 through 18, constructed pursuant to Congressional authorization, including the Reclamation Act of June 17, 1902 (32 Stat. 388), acts amendatory and supplementary thereto, and the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), and fee title in the United States, without being held in trust for the Quechan Tribe, to lands occupied by all of said works and appurtenances, and there is also reserved the right of the United States, its licensees and contractors, to operate, maintain, and reconstruct said works and appurtenances, including but not limited to:

(1) *The All-American Canal*, and all appurtenances (including, but not limited to, the Pilot Knob Checkdam and Wasteway back to the Colorado River) as generally shown on Drawing No. 35–300–48 dated February 1968, and Drawing No. 35303–2127 dated June 5, 1967, on file at the Bureau of Indian Affairs, Phoenix Area Realty Property Management Branch and incorporated herein by reference.

(2) *Laguna Dam Protection and Security Zone*, as shown on Drawing No. 423–300–704 dated June 6, 1972, on file at the Bureau of Indian Affairs, Phoenix Area Real Property Management Branch and incorporated herein by reference.

(3) *Laguna Settling Basin, Sediment Disposal Area and Security Zone*, as shown and named as "Channel" and most of the "Wildlife Area" on the above Drawing No. 423–300–704.

(4) *Yuma Main Canal, California Wasteway, and Colorado River Siphon.* The general location of the Yuma Main Canal and California Wasteway as shown and named on the above Drawing No. 35–300–48. The Siphon under the Colorado River is identified as "Siphon" on Drawing No. 212–303–1100, dated March 14, 1944, on file at the Bureau of Indian Affairs, Phoenix Area Real Property Management Branch and incorporated herein by reference.

(5) *Detention Reservoir Opposite Wash Overpasses on All-American Canal.* At present, there is only one area defined as a "Detention Reservoir," that being the Detention Reservoir as shown on the above Drawing No. 35–303–2127, basically existing below the All-American Canal. This reservoir is erroneously depicted as being part of the patented Bard area on the map referred to in Section 1 hereof.

(6) *Upper and Lower Reservation and Levees.* The locations of the Upper and Lower Protective Levees shown on Drawing No. 35–300–48; however, the

Upper Levee is denoted only as "Reservation Levee." Both levees are properly denoted on the above Drawing No. 35–303–2127.

(7) *Old Yuma Main Canal.* The general location of this facility, a large portion of which is utilized as an interceptor drain, is shown on the above Drawing No. 212–303–1100.

(8) *Irrigation Canals and Laterals in Reservation Division Yuma Project.* Drawings Nos. 35–3–303–127 and 35–300–48 above show these irrigation facilities.

(9) *All Drainage Channels as Presently Exist.* Drawings Nos. 35–303–2127 and 35–300–48 above, indicate these facilities.

(10) *Siphon Drop and Pilot Knob Power Plants together with existing Related Transmission Lines and Appurtenances.* Both the Siphon Drop and Pilot Knob Power Plant locations as shown on the above Drawing No. 35–300–48, respectively named "Siphon Drop Power Plant" and "Pilot Knob Plant." In both cases, related facilities and appurtenances such as the Pilot Knob Drop, residences, other buildings, and related transmission lines and communication lines are not identified on any drawing.

(11) *Well Clusters.* Several well clusters are placed along the Colorado River Flood Plain in conjunction with the U.S. Geological Survey, the purpose of which is a study to measure return flows. There is no reproducible drawing that would show as a composite the locations. The general locations are shown by "blue" lines on the above Drawing No. 35–300–48.

(12) *Parker-Davis 161-Kv Transmission Line.* This line traverses the area from its crossing of the Colorado River westerly to the Pilot Knob Substation. The location is shown on the above Drawing No. 35–300–48.

(13) *Boundary Pumping Plant 34.5-Kv Transmission Line.* This line interties the Valley Division's boundary pumping plant, the Yuma County Water Users' Association Headquarters Building, California Wasteway, Siphon Drop, and Imperial Dam, and is shown on the above Drawing No. 35–300–48.

(14) *Interconnecting Telephone Electrical, and Remote Control Lines to Project Features.* These features, which are appurtenances to other project facilities, are not contained on any drawings but are largely within rights-of-way of other project features.

(15) *Senator Wash Dam 69-Kv Transmission Line.* Location shown on the above Drawing No. 35–300–38.

(16) *Collector Line (South Gila Drainage).* Location shown on Drawing No. 35–300–48 by "blue" pencil line extending from the Colorado River to South Gila Levee.

(17) *South Gila Levee (including Main Outlet Drain Extension).* Location shown by Drawing No. 35–300–48 as revised in ink to show now existing conditions resulting from installation of a siphon to replace the earlier flume.

(18) *Gauging Station.* Location shown by "blue" pencil mark below the letters "ol" in the word "seminole" on Drawing No. 35–300–48, below the Winterhaven townsite, including access road to cable gauging station in Section 27, T.16S, R 22 E. SBM California.

Provided, however, that should any of the above works and rights-of-way (excepting the works described in subparagraphs (1), (4), and (10) hereto), be abandoned or cease to be used in connection with authorized Reclamation projects by the United States as determined in writing by the Secretary of the Interior equitable title thereto shall revert to the Tribe, in all instances where the Tribe owns equitable title to all lands immediately adjoining said works. A survey of the locations and extent of the areas occupied by the works and rights-of-way referred to above and the material sites referred to in paragraph 7 below will be made as promptly as possible by the United States without cost to the Tribe, and the results of that survey shall be reported to the Tribe, with any dispute referred to the Secretary for resolution.

e. There is hereby reserved to the United States, its officers, agents, employees, contractors, patentees, licensees, and holders of other rights, the right of ingress to, passage over and egress from such lands over existing or relocated roadways at all times for the purpose of exercising the rights specified in this Order and for all lawful purposes in connection with the maintenance and operation of all Reclamation works: *Provided, however,* That new roadways will not be constructed on reservation lands without consent of the Tribe, and that existing roadways may be relocated by the Tribe at its own expense so long as their adequacy for the purpose served by the original roadway is approved by the agency or organization using the roadway to the relocation of the roadway.

f. The Tribe's equitable title to such lands within the flood plain of the Colorado River, including Laguna Dam South Recreational Area, shall be subject to the rights of the United States under the Act of June 28, 1946, 60 Stat 338. The Tribe shall not construct or install or permit the construction or installation of any permanent improvements of such lands within the flood plain or floodway, as shown by "red" coloring on Drawing No. 423–300–1036 (Bureau of Reclamation, Flood Plain Information—Colorado River-Imperial Dam to San Luis, Plate 3 (August 1973)), on file at the Bureau of Indian Affairs, Phoenix Area Branch of Real Property Management and incorporated herein by reference, nor will the Tribe permit said lands to be used in any manner inconsistent, with or contrary to, the purpose or intent of Executive Order No. 11988.

g. There is hereby reserved to the United States the right to continue in exclusive possession of all presently used material sites located within the now recognized reservation boundaries, of sand, gravel, fill, clay and rock to the extent reasonably necessary for operation and maintenance of its project works; *Provided, however,* That the sites are abandoned or the use thereof is changed in any substantial manner by the United States, possession shall revert to the Tribe at its option. *Provided, further,* That the United States shall pay to the Tribe fair market value of any and all materials removed from these sites from and after the date of this Order, and shall make regular periodic reports to the Tribe concerning the value of all materials removed.

Sec. 4. Miscellaneous Provisions

a. Nothing contained herein shall prevent the Tribe from recovering whatever compensation it may be determined is appropriate in any proceeding now pending or hereafter brought against the United States for past use of such lands.

b. The Quechan Tribe has agreed, pursuant to Tribal Resolution #R–1–81 dated January 13, 1981, to relinquish any claim for damages it might have for trespass against third parties who acquired rights-of-way across such lands from the United States under the assumption that such lands were not Indian lands.

c. Any claim for water rights in addition to that amount presently enjoyed under *Arizona* v. *California,* asserted in relation to such lands, will be predicated only upon the criteria heretofore employed in *Arizona* v. *California.*

c. The Order determines the respective interests to such lands of the United States and the Quechan Tribe, subject to the provisions of Section 3 of this Order. This Order does not affect any claim of the State of Arizona or the State of California or any successor of interest thereof may have to such lands.

d. All agencies of the Department are hereby directed promptly to take all necessary steps to implement the

Opinion of the Solicitor and the terms of this Notice of Secreterial Determination and Directives.

Dated: January 30, 1981.

James G. Watt,

Secretary of the Interior.

[FR Doc. 81-4426 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-02-M

Outer Continental Shelf Advisory Board Meeting Cancellation Notice

The Department of the Interior has cancelled the Annual Outer Continental Shelf Advisory Board meeting scheduled for February 11, 12, and 13, 1981, at the Mills House in Charleston, South Carolina. The meeting was announced in the **Federal Register** January 7, 1981.

The OCS Advisory Board is made up of three committees, the Policy Committee, the Scientific Committee, and six Regional Technical Working Groups. The Board and its component committees advise the Secretary of the Interior and other officers of the Department on all aspects of the OCS program. Its membership includes representatives of the coastal State Governors, the public and private sector and other Federal agencies.

The meeting has been cancelled in order to reduce Federal travel costs.

Dated: February 4, 1981.

Alan D. Powers,

Director, Office of OCS Program Coordination.

[FR Doc. 81-4459 Filed 2-5-81; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP2-002]

Motor Carrier Permanent Authority Decisions

Decided: February 2, 1981.

The following applications, filed on or after March 1, 1979, 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 petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission on or before March 9, 1981. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (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(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those 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. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely 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.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

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 administrative 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.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicannt has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service 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 regulation. 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, preliminary 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 on or before March 9, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a 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 following decision-notices within 30

days after publication, or the application shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate of foreign commerce, over irregular routes, except as otherwise noted.

MC 107002 (Sub-562F) (Correction), filed November 5, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. box 1123, Jackson, MS 39205. Representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, MS 39204. Transporting *cement and concrete mixtures*, Memphis, TN to points in AL, AR, KY, IL, LA, MS, MO and TN. The purpose of this republication is to correct the commodity description.

[FR Doc. 81-4379 Filed 2-5-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 13]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 30, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 56270 (Sub-50X), filed January 22, 1981. Applicant: LEICHT TRANSFER & STORAGE CO., 1401 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Alki E. Scopelitis, Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204. Applicant seeks to remove restrictions in its Sub-No. 23F certificate to (A) broaden the commodity descriptions in parts (1) and (3) from paper, paper products, cellulose products and scrap paper to "pulp, paper, and related products" and in part (2) from plastic products to "rubber and plastic products", (B) replace named plantsites at named cities and specified service points in Wisconsin with their corresponding county-wide authority and expand its one-way authority to serve radially: In parts (1) and (3) between Ashland (from Ashland), Brown (from Green Bay), Columbia (from Columbus), Eau Claire (from Eau Claire), Fond du Lac (from Fond du Lac), Jefferson (from Watertown), Lincoln (from Tomahawk and Merrill), Marathon (from Brokaw, Mosiner, and Wausau), Marinette (from Peshtigo and Marinette), Oconto (from Oconto Falls), Oneida (from Rhinelander), Outagamie (from Appleton, Kaukauna, and Kimberly), Price (from Park Falls), Rusk (from Ladysmith), Shawano (from Shawano), Washington (from Hartford), and Winnebago (from Menasha, Neenah, and Oshkosh) Counties, and Milwaukee, WI, and points in 16 midwestern states; in part (2) between Winnebago (from Neenah) and Jefferson (from Watertown) Counties, WI, and points in the 16 States in (1) and (3) above, and (C) eliminate the restriction against the transportation of commodities in bulk, in tank vehicles; eliminate the restriction to transportation of traffic originating at and destined to the named points; and eliminate the restriction against shipments originating at the Wisconsin facilities of 4 named shippers.

MC 53841 (Sub-46X), filed January 22, 1981. Applicant: W. H. CHRISTIE & SONS CO., INC., Box 517, East State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Applicant seeks to modify the regular routes portion of its lead certificate which authorizes the transportation of general commodities (with exceptions), in NJ, PA, NY, and DE, by removing all commodity exceptions (except classes A and B explosives and household goods as defined by the Commission) and by including all intermediate points on its routes between (1) Erie, PA, and New York, NY, (2) Kane, PA, and Farmers Valley, PA, (3) Kane, PA, and Camden, NJ, and (4) Gap, PA, and Wilmington, DE.

MC 64806 (Sub-17X), filed January 26, 1981. Applicant: R. P. THOMAS TRUCKING COMPANY, INC., 807 W. Fayette St., Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Applicant seeks to remove restrictions in its Sub-Nos. 11F and 13F certificates by (1) broadening the commodity description from new furniture, to "furniture and fixtures", (2) removing the restriction limiting service to specific named shippers, and (3) authorizing radial service in lieu of existing one-way service between points in (a) Henry County, VA, and, points in FL, IL, IN, KY, NY, OH, and TN, in Sub-No. 11F, and, (b) Henry County, VA, and points in AR, IA, LA, MN, MS, MO, OK, TX, and WI, in Sub-13F.

MC 71365 (Sub-541X), filed January 22, 1981. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, AL 35202. Representative: R. Cameron Rollins, 124 Commerce St., Kingsport, TN 37660. Applicant seeks to remove restrictions in its Sub-366, 394, 518F, 526F, 445F, and 516F certificates to broaden its commodity descriptions to (1) eliminate the restrictive language "each weighing 15,000 pounds or more" from the commodity description in Sub-366; (2) receive "metal products", authority from aluminum products, zinc and zinc alloys (except in bulk) in Sub-394; (3) "metal products" from iron and steel articles in Sub-518F; and (4) "machinery" from heat exchanges, heat equalizers, air, gas and liquid moving and conditioning equipment in Sub-526F. Applicant seeks to expand one-way authority to radial authority and to replace specified plantsites and cities with county-wide authority in the following: In Sub-366, a named plantsite at Bowling Green, KY, with Warren County, KY; in Sub-No. 394, a named plantsite at Decatur, AL, with Limestone County, AL, Casa Grande, AZ, with Pinal County, AZ, Long Beach, Riverside, Visalia, Perris Valley and Woodland, CA, with Los Angeles, Riverside, Tulare and Yolo Counties, CA, Loveland, CO, with Larimer County, CO, Ocala and Plant City, FL, with Marion and Hillsborough Counties, FL, Peachtree City and Jonesboro, GA, with Fayette and Clayton Counties, GA, Bessie and Twin Falls, ID, with Ada and Twin Falls Counties, ID, Morris and St. Charles, IL, with Grundy and Kane

Counties, IL, Franklin and Bicknell, IN, with Johnson and Knox Counties, IN, McPherson, KS, with McPherson County, KS, Montevido, MN, with Chippewa County, MN, Herndando, MS, with DeSoto County, MS, Dunkirk, NY, with Chantauqua County, NY, Reidsville, NC, with Rockingham County, NC, Tulsa and Checotah, OK, with Tulsa and McIntosh Counties, OK, Stayton, OR, with Marion County, OR, Bloomsburg, PA, with Columbia County, PA, Denison and Mansfield, TX, with Grayson and Tarrant Counties, TX, Harrisonburg, VA, with Rockingham County, VA, Ferndale, WA, with Whatcom County, WA, Marshfield, WI, with Wood County, WI, and it seeks to expand its plantsite authority to city-wide authority in St. Louis, MO, Chicago, IL, Cleveland, OH, and Spokane, WA; in Sub-No. 445F, Crystal Lake, IL, with McHenry County, IL; in Sub-516F, a named plantsite at Pocatello, ID, with Bannock County, ID; in Sub-518F, a named plantsite at Bellevue, OH, with Huron County, OH. Applicant also seeks to eliminate the restriction against service to Alaska and Hawaii and to eliminate all "originating at and destined to restrictions" in each of the above certificates.

MC 111485 (Sub-33X), filed January 28, 1981. Applicant: PASCHALL TRUCK LINES, INC., Highway 641 South, Murray, KY 42071. Representative: John M. Ballenger, Suite 400, 6121 Lincoln Road, Alexandria, VA 22312. Applicant seeks to (1) remove all restrictions in its general commodities authority except "classes A and B explosives," in its lead and Sub-7, 10, 16, 19F, 20F, 23F, and 24F certificates; (2) authorize service, in connection with its regular-route operations, at all intermediate points: (a) lead, between Murray, KY, and St. Louis, MO; (b) Sub-7, between Murray, KY, and Memphis, TN; (c) Sub-10, between Louisville, KY, and Calvert City, KY; between Louisville, KY, and Fulton, KY; between Nashville, TN, and Calvert City, KY; between Nashville, TN, and Mayfield, KY; between Aurora, KY, and Murray, KY; between Murray, KY, and Mayfield, KY; between Murray, KY, and Fulton, KY; between Murray, KY and junction TN Hwy 119 and U.S. Hwy 79 near Paris Landing, TN; and between Hopkinsville, KY, and junction Alternate U.S. Hwys 41 and 79 near Clarksville, TN; (d) Sub-19, part (6), between the junction of U.S. Hwy 45 and KY Hwy 94 and Paducah; part (10) between Fulton, KY and Memphis, TN; and (e) Sub-20, between Paris, TN and Murray, KY; (3) in Sub-10, remove restrictions to radial shipments between Nashville, TN, and Mayfield, KY; between Nashville, TN, and Louisville, KY, and, Calvert City, Grand Rivers, Aurora, Fulton, Hazel, Murray, and Benton, KY and points within 5 miles of each; and between Nashville and Memphis, Louisville and St. Louis and points in their commercial zones; (4) in Sub-16, remove restrictions to traffic orginating at or destined to Hazel and Grand Rivers, KY; (5) in Sub-19, remove all restrictions against interlining; (6) in Sub-23; substitute county-wide authority for Hickman, KY, remove the facilities restriction, and the restriction to traffic originating at or destined to IN, IL, and specified points in KY, TN, OH, and MO, to authorize between points in Fulton County, KY, and, points in the United States; and (7) in Sub-24, remove the plantsite restrictions, to authorize between points in Marshall, KY, and, points in the United States.

MC 124813 (Sub-231X), filed January 23, 1981. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Applicant seeks to modify its permits in Sub-17, 31, 51, 53F, 54F, 58F, 59F, 63F, and 64F by expanding the territory descriptions to "between points in the U.S." under contract(s) with named shippers. It also seeks to broaden the commodity descriptions (a) in Sub-17 and 24 by changing roofing materials and supplies to "building materials," (b) in Sub-31 by changing lumber, lumber products and building materials (except iron and steel products and commodities in bulk) to "lumber, wood products, and building materials," (c) in Sub-51 from plastic pipe to "pipe," (d) in Sub-54F, by changing lumber and lumber products to "lumber and wood products," (e) in Sub-63F from building materials, pipe and pipe fittings and materials to "building materials and pipe and materials, equipment and supplies used in the manufacture, distribution or installation of building materials and pipe," (f) in Sub-64F from lumber, lumber products and wood products to "lumber and wood products." It also requests cancellation of its Sub-24 which would be duplicated by Sub-17.

MC 133591 (Sub-121X), filed January 26, 1981. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, Jr., 58 S. Main St., Winchester, KY 40391. Applicant seeks to remove restrictions from its Sub-58F certificate which authorizes the transportation of commodities dealt in or used by wholesale or retail grocery stores and catalog stores (except fresh and frozen meats and except commodities in bulk) from and to points in specified States, restricted to traffic which originates in the named origin states and is destined to the facilities of named shippers in the seven destination States or parts thereof. Applicant seeks to modify Sub-58F by deleting restrictions against movement of fresh and frozen meats and commodities in bulk; by deleting the restriction limiting service to traffic originating at 8 origin States and destined to facilities in the destination States and by replacing one-way authority with radial authority, with service from and to points in AR, MO, KS, KY, TN, IL on and south of U.S. Hwy. 24, and Indiana on and south of U.S. Hwy. 24 limited to service at the facilities of the named shippers.

MC 139906 (Sub-137X), filed January 26, 1981. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2165 West 2200 South, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Applicant seeks to remove restrictions in its Sub-91F certificate to (1) broaden the commodity description from foodstuffs to "food and related products" (2) remove the "commodities in bulk" restriction (3) broaden the territorial authority from specified plantsites at or near Edison, New Brunswick and Elizabeth, NJ, to county-wide authority in Middlesex, Essex, and Somerset Counties, NJ and (4) replace one-way authority with radial authority between the above origin points and points in the U.S.

MC 142461 (Sub-9X), filed January 22, 1981. Applicant: H & W TRUCKING CO., INC., P.O. Box 1545, Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. Applicant seeks to modify its permits in Sub-1, 3F, and 5F by (1) broadening the commodity descriptions from new furniture, new furniture parts, and fiberboard to "furniture and fixtures", and (2) broadening the territorial description to between points in the U.S., under contract(s) with named shippers.

MC 143059 (Sub-155X), filed January 26, 1981. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Applicant seeks to remove restrictions from its certificates in Sub-3, 20F, 39F, 57F, 60F, 87F, 97F, and 114F, by (A) broadening the commodity description to "metal products," from, respectively, (Sub-3) iron and pipe fittings, except those which require the use of special equipment, (Sub-20F) steel pipe, (39F) steel building parts, (Sub-57F) metal

buildings, complete, knocked down, or in sections, and parts and accessories for metal buildings, and materials, equipment, and supplies used in the manufacture and distribution, thereof, (Sub-60F) iron and steel articles, (Sub-87F) prefabricated metal buildings, knocked down, and materials, equipment and supplies used in the construction thereof (Sub-97F) nonferrous metals except in bulk, and materials, equipment and supplies used in the manufacture and distribution thereof, and (Sub-114F) iron and steel articles, (B) broadening the territorial authority by replacing its one-way authority with radial authority in Subs-3, 20F, 39F, 57F, 87F, 97F and 114F, (C) by eliminating the limitation to the facilities of named shippers in each listed certificate, (D) eliminating the exclusion of the States of AK and HI as authorized service territory in each listed certificate, (E) eliminating restrictions to the transportation of traffic originating at named points or facilities in each certificate and (F) respectively broadening the territorial authority from Blossburg, PA to Tioga County, PA (Sub-3), from Wagoner, OK, and Bellevue, OH to Wagoner County, OK, and Huron County, OH (Sub-20F), from Stafford, TX to Fort Bend County, TX (Sub-39F), from Spanish Fork, UT, Portland, TN, and Houston, TX to Utah County, UT and Sumner County, TN (Sub-57F), from Youngstown, OH, Berkeley Springs, WV, Hagerstown, MD, Canton, OH, Export, PA, Pulaski, PA, Pittsburgh, PA, and Bedford Park, IL to Mahoning County, OH, Morgan County, WV, Washington County, MD, Stark County, OH, Westmoreland, Lawrence and Allegheny Counties, PA and Cook County, IL (Sub-60F), from Wheatland, PA to Mercer County, PA (Sub-87F), from Amarillo, Corpus Christi, TX, Glover, MO, Sand Springs, OK, Whiting, IN, Hillsboro, IL and Columbus, OH to Potter and Nueces Counties, TX, Iron County, MO, Tulsa County, OK, Lake County, IN, Montgomery County, IL and Franklin County, OH (Sub-97F), and from Pine Bluff, AR to Jefferson County, AR (Sub-114F).

MC 146703 (Sub-23X), filed January 22, 1981. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. Applicant seeks to remove restrictions in its Sub-40, 61, 65, 68, 72F, 78F, 85F, 93F, 98F, 99F, 102F, 103F, 104F, 105F, 114F, 115F, and in Sub-70 and 71 part (2) permits issued under MC 139193, to broaden the commodity description from various specified foodstuffs to "food and related products;" in Sub-54, from electric ranges and microwave ovens to "machinery;" in Sub-97F, 112F, and 113F from general commodities (with the usual exceptions) to "general commodities (except classes A and B explosives)." Applicant also seeks in each of the above identified permits and Sub-106F to (1) eliminate all "except commodities in bulk," "vehicle" and "ex-water" restrictions; and (2) broaden the territorial scope to "between points in the United States, under continuing contract(s) with named shippers."

MC 147962 (Sub-3X), filed January 26, 1981. Applicant: DONDO TRUCKING, INC., 9020 South Ridgeland, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions from its Sub-1F certificate to (1) broaden the commodity description from canned goods and materials and supplies used in the manufacture of canned goods to "food and related products", (2) delete the plantsite restriction of Campbell Soup Company at Chicago, IL and Napoleon, OH; (3) broaden the territorial description by changing Davenport, IA, to Scott County, IA, and Napoleon, OH to Henry County, OH; (4) replace the one-way authority with radial between Chicago, IL on the one hand, and, on the other, points in Indiana and Wisconsin, and points in Scott County, IA and Henry County, OH, and (5) remove the restriction to traffic originating at or destined to the named facility.

[FR Doc. 81-4381 Filed 2-5-81; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Brands, Inc., 245 Park Avenue, New York, New York 10167.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Acme Visible Records, Inc., Crozet, Virginia 22932.

(b) Acushnet Company, 700 Belleville Avenue, New Bedford, Massachusetts 02745.

(c) The Andrew Jergens Company, 2535 Spring Grove Avenue, Cincinnati, Ohio 45214.

(d) Sugar Beet Products Company, 302 Waller St., P.O.B. 1387, Saginaw, Michigan 48605.

(e) Duffy-Mott Company, Inc., 370 Lexington Avenue, New York, New York 10017.

(f) James B. Beam Distilling Co., 500 North Michigan Avenue, Chicago, Illinois 60611.

(g) Sunshine Biscuits, Inc., 245 Park Avenue, New York, New York 10167.

(h) Bell Brand Foods, Inc., 8825 South Millergrove Drive, Santa Fe Springs, California 90770.

(i) Swingline, Inc., 32-00 Skillman Avenue, Long Island City, New York 11101.

(j) Wilson Jones Company, 6150 Touhy Avenue, Chicago, Illinois 60648.

1. Parent corporation and address of principal office: Bauer Corporation, 1505 East Bowman Street, Wooster, OH 44691.

2. Wholly-owned subsidiary which will participate in the operations, and address of their respective principal offices: Bauer Transportation Company, 1505 East Bowman Street, Wooster, OH 44691.

1. Parent Corporation and address of principal office: Borg-Warner Corporation, 200 South Michigan Avenue, Chicago, IL 60604.

2. Wholly owned subsidiaries which will participate in the operations:

(a) Baker Industries, 1633 Littleton Road, Parsippany, NJ 07054.

(b) Borg-Warner Acceptance Copr., One IBM Plaza, Chicago, IL 60611.

(c) Borg-Warner Chemicals, Inc., International Center, Parkersburg, W.VA 26101.

(d) Borg-Warner Health Products, Inc., 2429 Schuetz Road, Maryland Heights, MO 28226.

(e) Borg-Warner International, 200 South Michigan Avenue, Chicago, IL 60604.

(f) Borg-Warner Investment Corporation, 200 South Michigan Avenue, Chicago, IL 60604.

1. Parent corporation and address of principal office: CFE Air Cargo, Inc., 7460 Tidewater Drive, Norfolk, Virginia 23505.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: CFE Equipment Corporation, Delaware.

1. Parent corporation and address of principal office: Chrysler Corporation, 12000 Lynn Townsend Drive, Highland Park, Michigan 48288.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Stamping Assembly and Diversified Operations Group, 12000

Lynn Townsend Drive, Highland Park, Michigan 48288.

(b) Power Train Division, 6565 East 8 Mile Road, Warren, Michigan 48015.

(c) Service and Parts Division, 26311 Lawrence Avenue, Center Line, Michigan 48015.

(d) Export and Import Division, 6000 Wyoming, Detroit, Michigan 48210.

(e) Chrysler Consolidations, 12000 Lynn Townsend Drive, Highland Park, Michigan 48288.

1. Parent corporation and address of principal office: Corn Construction Co., Post Office Box 1240, Grand Junction, Colorado 81502. Location: 3199 D Road, Grand Junction, Colorado 81501.

2. Wholly-owned subsidiaries which will participate in the operation and state of incorporation:

(i) Grand Junction Pipe and Supply Co., Colorado.

(ii) Fruita Ready Mix Co., Colorado.

(iii) Construction Materials Transport Inc., Colorado.

(iv) GSP Construction Co., Colorado.

1. Parent corporation and address of principal office: Future Foam, Inc., 400 North 10th Street, Council Bluffs, Iowa 51501.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principle offices:

(a) CNM Contract Carriers, Inc. (MC–143179), 400 North 10th Street, Council Bluffs, Iowa 51501.

(b) Rosan Foam Company, Inc., 5815 South Racine Ave., Chicago, Illinois 60636.

1. Parent corporation: Harvey Hubbell, Incorporated, 584 Derby Milford Road, Orange, CT 06477.

2. Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) The Ohio Brass Company, 380 North Main Street, Mansfield, OH 44902.

(b) The Kerite Company, 49 Day Street, Seymour, CT 06483.

1. Name of parent corporation and address of principal office: INCO ElectroEnergy Corporation, 5 Penn Center Plaza, Philadelphia, PA 19103.

2. List of wholly-owned subsidiaries which will participate in operations, and addresses of their respective principal offices:

(a) Exide Corporation, 5 Penn Center Plaza, Philadelphia, PA 19103.

(b) ESB Incorporated, 5 Penn Center Plaza, Philadelphia, PA 19103.

(c) Exide Management & Technology Company, 5 Penn Center Plaza, Philadelphia, PA 19103.

(d) Refined Metals Corporation, 257 West Mallory Street, Memphis, TN 38109.

(e) Ray-O-Vac Corporation, 101 East Washington Avenue, Madison, WI 53703.

(f) ESB Materials Company, 955 S. Main Street, Covington, TN 38019.

(g) Exide Electronics Corporation, 2 Penn Center Plaza, Philadelphia, PA 19102.

(h) Universal Electric Company, 300 East Main Street, Owosso, MI 48867.

1. Parent corporation and address of principal office: Johnsonville Sausage, Inc., Route #1, Sheboygan Falls, Wisconsin 53085.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Johnsonville Trucking, Inc., Route #1, Sheboygan Falls, Wisconsin 53085; State of Wisconsin.

1. Parent corporation and address of principal office: Love Box Company, Inc., a Kansas corporation, P.O. Box 546, Wichita, Kansas 67201.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Love Transport Company, Inc., a Kansas corporation.

(ii) Sooner Box Company, an Oklahoma corporation.

1. Parent corporation and address of principal office: Phillips Petroleum Company, Bartlesville, OK 74004.

2. Wholly-owned subsidiary which will participate in the operations, and State(s) of incorporation: Phillips Natural Gas Company, Incorporated in the State of Delaware.

1. Parent Corporation and address of principal office: SCA Services, In., 60 State Street, Boston, Massachusetts 02109.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Name of Subsidiary and State of Incorporation

A. A. Mastrangelo, Inc., New Jersey
Amphibian Realty, Inc., New York
Avon Landfill Corporation, New Jersey
B & C Distribution Services, Inc. Massachusetts
CAS Service Corp., California
Chem-Trol Pollution Services, Inc., Delaware
Chula Vista Sanitary Services, Inc., California
Dewey's Rubbish Service, California
East Yolo Waste Disposal Co., Inc., California
Great Western Reclamation, Inc., California
Harmony Sanitary Landfill Co., Pennsylvania
Impac, Inc., New Jersey
Industrial Haulage Corp., New Jersey
Instant Disposal Service, Inc., New Jersey
Intercity Service, Incorporated, New Jersey
Interstate Waste Removal Co., Inc., New Jersey
Laguana Beach Disposal Service, California
Landfill & Development Company, New Jersey
Mar-Tee Contractors, Inc., New Jersey
Mobile Waste Controls, Inc., Delaware
Modern Trash Removal of York, Inc., Pennsylvania
Mohawk Valley Sanitation, Inc., New York
Oklahoma City Disposal, Inc., Oklahoma
Palm Desert Disposal Service, Inc., California
Rabwil Corp., Pennsylvania
Recycling Industries, Inc., Massachusetts
Rite-Way Service, Inc., Pennsylvania
Sani-Tainer, Inc., California
SAWDCO, California
SCA Chemical Services, Inc., Delaware
SCA Disposal Services of New England, Inc., Massachusetts
SCA Services of Arizona, Inc., Arizona
SCA Services of Colorado, Inc., Colorado
SCA Services of Connecticut, Inc., Connecticut
SCA Services of Florida, Inc., Florida
SCA Services of Georgia, Inc., Georgia
SCA Services of Illinois, Inc., Illinois
SCA Services of Indiana, Inc., Indiana
SCA Services of Kentucky, Inc., Kentucky
SCA Services of Louisiana, Inc., Louisiana
SCA Services of Maine, Inc., Maine
SCA Services of Michigan, Inc., Michigan
SCA Services of New Hampshire, Inc., New Hampshire
SCA Services of New Jersey, Inc., New Jersey
SCA Services of Ohio, Inc., Ohio
SCA Services of Passaic, Inc., New Jersey
SCA Services of Pennsylvania, Pennsylvania
SCA Services of South Carolina, South Carolina
SCA Services of Tennessee, Inc., Tennessee
SCA Services of Texas, Inc., Texas
SCA Services of Wisconsin, Inc., Wisconsin
SCAT, Inc., South Carolina
Shayne Bros., Inc., District of Columbia
South Carolina SCA Services, Inc., South Carolina
System Disposal Services, Inc., Delaware
United Carting Company, Inc., New Jersey
United Disposal Corp., District of Columbia

Violet Leasing Company, Inc., California
Waste Disposal, Inc., New Jersey
Zeigler's Liquid Waste Management, Inc., Pennsylvania
Zeigler's Refuse Collector's, Inc., Pennsylvania
SCA Services of Oregon, Inc., Oregon

1. Parent corporation and address of principal office: W. W. Grainger, Inc., 5500 W. Howard St., Skokie, IL 60077.

2. Wholly-owned subsidiaries which will participate in the operation and address of their respective offices:

W. W. Grainger, Inc. Distribution Group, Chicago, IL
Dayton Electric Manufacturing Co., Chicago, IL
Doerr Electric Corporation, Cedarburg, Wisc.
W.W.G. International, Inc., Chicago, IL

1. Parent corporation and address of principal office: Wy-Tex Livestock, Inc., 2201 East Third Street, Amarillo, TX 79120.

2. Wholly-owned subsidiary which will participate in the operations and addresses to their respective principal offices: (a) Wy-Tex Livestock Trucking, Inc., 2201 East Third Street, Amarillo, TX 79120.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-4382 Filed 2-5-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation of Preliminary Proposals on Role and Impact of Police Collective Bargaining

The National Institute of Justice plans to initiate a program or research to examine the effects of police collective bargaining and especially the issue of binding arbitration on police administration and operations. At present there is limited information on the impact of unions and, more importantly, the impact of binding arbitration on both policy-makers and police administrators. It is therefore evident that the entire issue of balance of powers in this area should be examined if police administration is to move forward in an effective manner under the new conditions resulting from the expansion of police unionism. The aim of this effort is to identify conflicts as well as evolving problems that may ultimately be avoided. This research is also designed to assist in the development of recommendations for resolving existing problems and issues between labor and management.

The solicitation, entitled, "The Role and Impact of Police Collective Bargaining" asks for the submission of preliminary proposals rather than concept papers or full proposals. The selection of the final applicant will be determined by a peer review panel process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than April 30, 1981. The grant or cooperative agreement is planned for award in July 1981 with funding support not to exceed $100,000 and a time period of 12–18 months in duration. To maximize competition for this award, both profit-making and non-profit organizations are eligible.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, "The Role and Impact of Police Collective Bargaining", National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Further information regarding the solicitation can be obtained by contacting Shirley S. Melnicoe or Joseph Kochanski, Office of Research Programs, National Institute of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531 (301/492-9110).

Dated: January 28, 1981.

Approved:

Harry Bratt,

Acting Director, National Institute of Justice.

[FR Doc. 81-4390 Filed 2-5-81; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meeting and Agenda

The winter meetings of committees of the Business Research Advisory Council will be held on February 23, and 24, 1981.

The meetings of the Committees on Employment and Unemployment, Price Indexes, and Wages and Industrial Relations will be held in room 2433, General Accounting Office Building, 441 G Street, N.W., Washington, D.C. Occupational Safety and Health will hold its Committee meeting in room S4215 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, February 23

1:30 p.m.—Committee on Wages and Industrial Relations

1. *Review of WIR Work in Progress.* Discussion based on report of Current Activities.
2. *Office of Wages and Industrial Relations Program Evaluation.* This item will cover recent efforts by the Office of Wages and Industrial Relations to initiate a broad based review.
3. *Review of FY 1982 Budget Decision.* Mr. Stelluto will brief the Committee on how the budget decision affects the Office of Wages and Industrial Relations.

Tuesday, February 24

9:30 a.m.—Committee on Price Indexes

1. Family Budget Report of Sub-Committee
2. Other Business

Tuesday, February 24

1:30 p.m.—Committee on Employment and Unemployment

1. Progress Report on the implementation of NCEUS recommendations.
2. The implications to BLS of changes in CPS population controls caused by new Census estimates.
3. Proposed changes to Standard Industrial Classification (SIC) system.
4. Other Business

Tuesday, February 24

1:30 p.m.—Committee on Occupational Safety and Health

1. Annual survey
   (a) Results of 1979 survey
   (b) Fatality survey
   (c) Plans for 1980 and 1981
2. Work Injury Reports
   (a) Surveys scheduled for FY 1982
   (b) Recommendations for future studies
3. Impact of Congressional action
   (a) Small employer exemptions
   (b) The role of statistics in the legislative process
4. Supplementary Data System
   (a) Status report on new approach for analysis
   (b) Discussion of *Monthly Labor Review* articles

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523-1559.

Signed at Washington, D.C., this 23rd day of January 1981.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 81-4346 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council; Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 25, 1981, in Room N–5437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Noel A. McBride
2. Statement by the Commissioner—Janet L. Norwood
3. Committee Reports:

(a) Economic Growth—(1990 projections, alternatives and assumptions)

(b) Wages and Industrial Relations—(Program evalutions, and possible budget decisions)

(c) Price Indexes—(Ad Hoc subcommittee review of Family Budgets)

(d) Employment and Unemployment—(Implementing the NCEUS recommendations, adjusting to 1980 Census)

(e) Occupational Safety and Health—(Annual Survey, and possible budget decisions)

4. Other Business
5. Chairman's Closing Remarks

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523–1559.

Signed at Washington, D.C., this 23rd day of January 1981.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 81–4347 Filed 2–5–81; 8:45 am]

BILLING CODE 4510–24–M

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. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 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 areas.
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 NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 2nd day of February 1981.

Luis Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending February 7, 1981

Name of applicant and location of enterprise	Principal product or activity
Val Decker Packing Co., Piqua, Ohio.	Processing and packaging of beef and pork meat products for wholesale distribution.

[FR Doc. 81–4453 Filed 2–5–81; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

California State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator-OSHA), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973, notice was published in the **Federal Register** (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards have been revised in accordance with Part 1953 to meet the requirement of adopting Federal Standard revisions and State initiated changes. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. By letter dated August 19, 1980, from Dorothy J. Fowler, Assistant Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, OSHA, and incorporated as part of the plan, the State submitted

proof documents concerning standards equivalent to Federal standards to Walking, Working Surfaces 29 CFR 1910.25 and 1910.26; Powered Platforms 29 CFR 1910.66(c)(21)(i–iii); Personal Protective Equipment 29 CFR 1910.132(a) and 1910.134(d)(1–2); Materials Handling and Storage 29 CFR 1910.178, 1910.180 and 1910.181; Machinery and Machine Guarding 29 CFR 1910.213(a), 1910.213(h), 1910.213(s), 1910.214, 1910.215(c)(2), 1910.217, and 1910.219; Hand and Portable Powered Tools 29 CFR 1910.241(c); Special Industries 29 CFR 1910.261(k)(23), 1910.264, 1910.265, 1910.266 and 1910.268; National Electrical Code 29 CFR 1910.309; Toxic and Hazardous Substances 29 CFR 1910.1000(e) and 1910.1001 (c) and (h); General Safety and Health Provisions 29 CFR 1926.28; Occupational Health and Environmental Controls 29 CFR 1926.50(c) and 1926.55 (a) through (c); Tools—Hand and Power 29 CFR 1926.304(f); Electrical 29 CFR 1926.400; Cranes, Derricks, and Hoists 29 CFR 1926.550(a) and 1926.556(b); Concrete, Concrete Forms and Shoring 29 CFR 1926.950 through 1926.953, 1926.956 and 1926.959. The State initiated standard changes with no comparable Federal standard concerned revisions pertaining to the subject matter of: Cranes, Stairways and Ladders, Elevators for Hoisting Workers, Suspended Scaffolds, Power-Driven Scaffolds, Safety Belts, Electrical Safety Orders, Cleat Ladders, Cranes and Derricks, and Logging and Sawmill Safety Orders.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.The detailed standards comparison is available at the locations specified below.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; and California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, California 94102; and Directorate of Federal Compliance and State Programs, Room N3101, 200 Constitution Avenue N.W., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective February 6, 1981.

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

Signed at San Francisco, California this 28th day of August 1980.

Gabriel J. Giliotti,

Regional Administrator.

[FR Doc. 81-4357 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-9332]

Armco Inc., Butler Works; Negative Determination 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 an investigation 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.

(1) That a significant number or proportion of the workers in the workers' 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 absolute decline in sales or production.

The investigation was initiated on July 14, 1980 in response to a petition which was filed by the Armco Butler Independent Employees Union on behalf of workers at the Butler Works of Armco, Incorporated, Butler, Pennsylvania. Workers at the Butler plant produce stainless steel sheet and strip, silicon steel sheet and strip and carbon steel ingots and blooms.

The investigation revealed that criterion (3) has not been met.

A. Stainless Steel Sheet and Strip

Evidence developed during the course of the investigation revealed that imports of stainless steel sheet and strip declined absolutely and relative to domestic shipments in 1979 compared to 1978, and in the first nine months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that customers with reduced purchases of stainless sheet and strip from the Butler Works and increased purchases of imported sheet and strip accounted for an insignificant portion of the Works' decline in sales of that product.

B. Silicon Sheet and Strip

Evidence developed during the course of the investigation revealed that increased imports by the Butler Works; surveyed customers accounted for an insignificant portion of the Works' sales decline.

Imports of silicon sheet and strip declined absolutely and relative to domestic shipments in 1979 compared to 1978, and declined absolutely in the first nine months of 1980 compared to the same period of 1979 of silicon sheet and strip increased relative to domestic shipments in the first nine months of 1980 compared to the same period of 1979, imports were less than five percent of domestic shipments.

A Department of Labor survey revealed that most of the surveyed customers either did not purchase imported silicon sheet and strip or reduced their purchases of imports in the first eight months of 1980 compared to the same period in 1979. Increased imports by the other surveyed customers in the first eight months of 1980 compared to the same period in 1979 accounted for an insignificant portion of the Butler Works' decline in sales of silicon sheet and strip.

C. Carbon Steel Ingots and Blooms

The investigation revealed that the Butler Works' entire production of carbon steel ingots and blooms is shipped to the Ambridge, Pennsylvania plant of Arnco, Inc. Another Armco facility is the Ambridge plant's major supplier of ingots and blooms. The Butler Works provides supplemental production as needed. The Ambridge plant does not purchase imported ingots and blooms, and the workers are not currently certified as eligible to apply for adjustment assistance.

Conclusion

After careful review, I determine that all workers of the Butler Works of Armco, Incorporated, Butler, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-4349 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Cape Wendy, et al.

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 February 17, 1981.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 17, 1981.

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 26th day of January 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cape Windy (Fishermen's Market Association, Inc.)	Santa Rosa, CA	1-16-81	12-19-80	TA-W-12,128	Catch and sell fish.
Dana Corp., Parish Division, (workers)	Ecorse, MI	1-16-81	1-14-81	TA-W-12,129	Heavy duty snow plow frames.
Eaton Corp., Engineered Fastener Division (AIW).	Massillon, OH	1-16-81	1-14-81	TA-W-12,130	Cold drawn carbon steel.
Gilda Fashions, Inc. (company)	New York, NY	1-16-81	1-11-81	TA-W-12,131	Shirts and jeans.
Movie Star, Inc., Barbara Quilting Division (workers).	Port Jervis, NY	1-16-81	1-12-81	TA-W-12,132	Ladies lounge wear.
Norm Strand Logging Co. (company)	Concrete, WA	1-16-81	1-13-81	TA-W-12,133	Contract logging.
Northern Lights (Fishermen's Market Association, Inc.).	Santa Rosa, CA	1-16-81	1-13-81	TA-W-12,134	Catch and sell fish.
Seal (Fishermen's Market Association, Inc.)	Bodega Bay, CA	1-16-81	1-13-81	TA-W-12,135	Catch and sell fish.
Two-B-Wear, Inc. (ILGWU)	Pennsauken, NJ	1-16-81	1-13-81	TA-W-12,136	Ladies' apparel.
Zenith Electronics Corp. of Missouri (IBEW)	Springfield, MO	1-13-81	1-6-81	TA-W-12,137	Completed assembly of color TV.
Lapeer Metal Products (UAW)	Lapeer, MI	10-8-80	7-21-80	TA-W-12,138	Auto stamping trim.
A. E. Nettleton shoe (workers)	Syracuse, NY	1-12-81	1-9-81	TA-W-12,139	Men's dress shoes.
AJD Cap Company (workers)	Richmond, VA	1-19-81	1-12-81	TA-W-12,140	Manufacturing baseball and commercial caps.
Asko, Inc., American Shear Knife Division (USWA).	West Homestead, PA	1-12-81	1-6-81	TA-W-12,141	Industrial knives, wear plates, and rolls.
Eagle Knitting Mills (TWUA)	Milwaukee, WI	1-19-81	1-10-81	TA-W-12,142	Manufacturing knit clothing for women and children.
Far West Garments (UGWA)	Seattle, WA	1-19-81	1-12-81	TA-W-12,143	Sportswear.
Regal Sportogs, Inc. (workers)	South Hackensack, NJ	1-12-81	1-9-81	TA-W-12,144	Cut and sew ladies and children's coats.
Sanitary Scale Co. (IAM)	Belvidere, IL	1-19-81	1-12-81	TA-W-12,145	Manufacturing electronic weighing and labeling devices.
Switches, O.E.M., Division of Dura Corp. (AIW).	Leiters, IN	9-27-80	6-18-80	TA-W-12,146	Switches for autos.
Tectonic Industries, Inc. (UAW)	Berlin, CT	1-16-81	1-5-81	TA-W-12,147	Extruded cellulose acetate sheets.
Electro Plating of Fond Du Lac (company)	Fond Du Lac, WI	1-19-81	1-14-81	TA-W-12,148	Plating outboard motors.
Exide Corp. (workers)	Cheektowaga, NY	1-21-81	1-8-81	TA-W-12,149	Batteries.
General Electric, Florida Lamp Plant (workers).	Plymouth, FL	1-21-81	1-15-81	TA-W-12,150	Flash cubes, night lights.
GTE Sylvania, Inc. (UE)	Emporium, PA	1-21-81	1-14-81	TA-W-12,151	Yokes.
Kaijay Pants Co., Inc. (workers)	Nesquehoning, PA	1-21-81	1-6-81	TA-W-12,152	Jeans, skirts, and shorts.
Lane Cedar Products (workers)	Springfield, OR	1-21-81	1-12-81	TA-W-12,153	Shakes and shingles.
Monroe Auto Equipment Company (company)	Hartwell, GA	1-22-81	1-14-81	TA-W-12,154	Automotive shock absorbers.
Niagara Plastics (URW)	Erie, PA	1-21-81	1-15-81	TA-W-12,155	Automotive Parts.
Leather Mates, Inc. (workers)	New York, NY	1-19-81	1-14-81	TA-W-12,156	Men's and ladies' leather coats.
ACRO, Inc. (company)	Stoneham, MA	1-21-81	1-20-81	TA-W-12,157	Aluminum racquetball and tennis racquets.
Chrysler Corp., California Emission Test Facility (UAW).	Santa Fe Springs, CA	1-21-81	1-12-81	TA-W-12,158	Emission testing of cars.
Concord Coal Corp. (company)	Charleston, WV	1-21-81	1-10-81	TA-W-12,159	Metallurgical coal.
Ohio Ferro Alloys Corp. (USWA)	Powhatan Point, OH	1-21-81	1-13-81	TA-W-12,160	Silicon metal.
Standards Products Co. (workers)	Cleveland, OH	1-16-81	1-10-81	TA-W-12,161	Rubber and plastic parts for auto industry.
South Western Ohio Steel, Inc. (workers)	Hamilton, OH	1-22-81	1-19-81	TA-W-12,162	Process steel in form of coils and sheets.
Tri City Sportswear (ILGWU)	Cohoes, NY	1-21-81	1-15-81	TA-W-12,163	Contractor of ladies' sportswear.
Union Carbide Corp., Metals Division (USWA)	Portland, OR	1-21-81	1-19-81	TA-W-12,164	Alloy metals.
Utica Duxbak Corp. (workers)	Utica, NY	1-21-81	1-14-81	TA-W-12,165	Outdoor clothing.

[FR Doc. 81-4356 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8937]

Caterpillar Tractor Co.; Negative Determination 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 an investigation 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.

(1) That a significant number of proportion of the workers in the workers' 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 absolute decline in sales or production.

The investigation was initiated on June 23, 1980 in response to a petition which was filed by the International Association of Machinists on behalf of workers at the Caterpillar Tractor Company, San Leandro, California. Workers at the San Leandro plant produce fuel injection systems for diesel engines.

The investigation revealed that criterion (3) has hot been met.

The predominant portion of the fuel injection systems produced at the San Leandro plant are marketed through Caterpillar's parts distribution system, either directly as fuel injection systems or as components of diesel engines. The Caterpillar distributors do not purchase imported fuel injection systems or diesel engines; and the replacement parts are used only in Caterpillar equipment.

The petitioners allege that imports of tractors contributed importantly to the production and employment declines at the San Leandro plant. A small portion of the San Leandro plant's production of fuel injection systems is shipped to Caterpillar assembly plants for inclusion requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated on July 7, 1980 in response to a petition which as components of newly built heavy equipment, such as wheel-loaders, bulldozers, excavators, scrapers, tractors and off-highway trucks.

Workers at the San Leandro plant are not separately identifiable by the ultimate use of the fuel injection systems that they produce. Fuel injection systems for newly built tractors account for a small percentage of total production. Any import influence of tractors could not have contributed importantly to overall employment declines at the firm.

Imports of motor graders, excavators, bulldozers and scrapers declined absolutely and relative to domestic shipments in 1979 compared to 1978, and declined absolutely in the first half of 1980 compared to the same period in 1979. Imports of tractors declined absolutely in the first three quarters of 1980 compared to the same period of 1979.

Conclusion

After careful review, I determine that all workers of the Caterpillar Tractor Company, San Leandro, California are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of January 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-4350 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9204 and 9204A]

Dynamic Instrument of Puerto Rico, Inc., Dynamic International Corp.; Certification 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 an investigation 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 was filed on behalf of workers at Dynamic Instrument of Puerto Rico, Incorporated, Lajas, Puerto Rico. The investigation was expanded to include workers at Dynamic International Corporation, Lajas, Puerto Rico. Workers at the Lajas, Puerto Rico plants produce AC adapters.

U.S. aggregate imports of AC adapters increased in 1979 compared with 1978 and during the period January through June 1980 compared with the same period in 1979. U.S. imports remained above 70 percent of domestic production during 1977 and 1978.

Company imports of AC adapters increased absolutely and relative to domestic production the period January during July 1980 compared with the same period in 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 the AC adapters produced at Dynamic International Corporation, Lajas, Puerto Rico and Dynamic Instrument of Puerto Rico, Incorporated, Lajas, Puerto Rico contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Dynamic Instrument of Puerto Rico, Incorporated, Lajas, Puerto Rico (TA-W-9204) and Dynamic International Corporation, Lajas, Puerto Rico (TA-W-9204A) who became totally or partially separated from employment on or after December 1, 1979 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of January 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-4351 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9229]

Inland Steel Co., Indiana Harbor Works, East Chicago, Ind.; Negative Determination 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 an investigation 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.

(1) That a significant number or proportion of the workers in the workers' 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 absolute decline in sales or production.

The investigation was initiated on July 7, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the Indiana Harbor Works of the Inland Steel Company, East Chicago, Indiana. Workers at the Indiana Harbor Works produce the following basic steel products: hot rolled carbon steel sheet and strip, cold rolled carbon steel sheet, metallic coated steel sheet, carbon steel plate, carbon steel bars, carbon steel piling, and carbon steel structural shapes.

The investigation revealed that criterion (3) has not been met.

U.S. imports of steel products competitive with those manufactured by Inland Steel's Indiana Harbor Works declined absolutely and relative to domestic shipments in 1979 compared to 1978, with one exception—structural shapes. However, the Indiana Harbor Works' sales and production of structural shapes increased in 1979 compared to 1978. In addition, total employment at the Work increased in 1979 compared to 1978.

A. Cold Rolled Sheet and Coated Sheet

U.S. imports of cold rolled sheet and coated sheet declined absolutely and relative to domestic shipments in the first nine months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that none of the surveyed customers reduced purchases from the Indiana Harbor Works while increasing purchases of imported cold rolled or coated sheet in the first half of 1980 compared to the same period in 1979.

B. Hot Rolled Sheet and Strip and Carbon Steel Bars

U.S. imports of hot rolled sheet and strip and bars declined absolutely in the first nine months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that the surveyed customers purchased a negligible amount of imported hot rolled sheet and strip and carbon steel bars. The survey did disclose that a few of the customers reduced purchase from the Indiana Harbor Works in the first half of 1980 compared to the same period in 1979 while increasing purchases of imported sheet and strip or bars. However, these customers accounted for a insignificant portion of the Works' decline in sales of these products.

C. Carbon Steel Plate

A Department of Labor survey revealed that surveyed customers which decreased purchases from the Indiana Harbor Works in the first half of 1980 compared to the same period in 1979 while increasing purchases of imported carbon steel plate, represented an insignificant portion of the Works' decline in the sale of carbon steel plate.

D. Structural Shapes and Pilings

Production and sales of structurals and piling at the Indiana Harbor Works increased in the first half of 1980 compared to the same period in 1979.

Conclusion

After careful review, I determine that all workers of the Indiana Harbor Works of the Inland Steel Company, East Chicago, Indiana are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of January 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-4352 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8161, 8163]

L & K Company, Inc., Shelby, N.C., and L & K Sewing, Inc., Hickory, N.C.; Negative Determination Regarding Application for Reconsideration

By letter of December 17, 1980 (copy attached), the company for the workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the instant companies. The determination was published in the **Federal Register** on December 19, 1980 (45 FR 83695).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The company in its application for reconsideration for workers of L & K, Shelby, North Carolina and Hickory, North Carolina, claimed that the Department was inconsistent by denying its workers and certifying workers at Jonathan Logan and Ship N Shore and questioned whether in the survey the Department asked L & K's customers if their competitors were increasing their imports and thereby affecting L & K's sales and employment.

The Department's review showed that the petition for workers at L & K did not meet the increased import criterion for ladies' sportswear nor the "contributed importantly" test of Section 222 of the Trade Act of 1974. The Department's survey of L & K's customers showed that most customers surveyed either did not import ladies' sportswear or they reduced import purchases in 1979 and in the first six months of 1980. The responses were consistent with the overall trend of imports of these products. Nearly all the respondents who reduced their purchases from L & K and increased their import purchases also increased their purchases from other domestic sources during the same period. Company imports of ladies' sportswear were not significant.

According to Department's files only workers in two Jonathan Logan plants producing ladies' clothing were certified. These workers filed under petitions TA-W-4699 and TA-W-5535 dated January 15, 1979 and June 8, 1979, respectively. The Department's certifications were based largely on data prior to the 1979 period. The Department's negative determination for workers at L & K was based on more recent import data because of the later filing date, April 30, 1980, and on the customer survey.

The Department's certifications of workers of certain Ship N Shore plants were based upon the customer survey, which revealed substantial shifts of

customer purchases from Ship N Shore to foreign sources for ladies' sportswear, and the fact that the level of imported sportswear in the January through September 1979 period was higher than the average level of imports of ladies' sportswear during the 1975–1978 period. The Department notes that although it certified workers producing ladies' sportswear at certain Ship N Shore plants in April, 1980 resulting from petitions filed on February 5, 1980, the Department also denied workers at other Ship N Shore plants, namely, TA-W-6925, Charleston, South Carolina; TA-W-6926, Burlington, New Jersey; TA-W-6935, Baxley, Georgia and TA-W-6941, Ephrata, Pennsylvania, because they did not meet all the statutory criteria of the Act.

The Department was unable to make a finding that increased imports contributed importantly to worker separations at L & K. The Department believes that its random survey of L & K customers was an adequate one and reflects the activities of L & K's many small customers. The evaluation of L & K's customers' activities should provide the best evidence, in conjunction with aggregate import data, to determine if increased competitive imports contributed importantly to worker separations and sales decline at L & K.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error **cr** misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 28th day of January 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-4353 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8813]

Trico Products Corp.; Negative Determination Regarding Application for Reconsideration

By an application dated December 16, 1980, the petitioner requested administrative reconsideration of the Department of Labor's Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing windshield wiper components at three Buffalo, New York locations. The determinations was published in the **Federal Register** on December 2, 1980 (45 FR 79950).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the determination.

The petitioner claims that the Department did not take into consideration Trico's customers in the after market. The petitioner also claims that the Department's denial notice was silent for the period immediately before model year 1979 by the one major customer who imported windshield wiper components in model year 1979.

The Department's review showed that the petition did not meet the "contributed importantly" test of the Trade Act of 1974. The Department's survey of Trico's major customers revealed that one original equipment manufacturer reported purchasing imported windshield wiper components and this customer decreased its imported purchases in model year 1980 compared to model year 1979, while increasing its purchases from domestic sources. The Department's file also showed that this customer did not import windshield wiper components until model year 1979 which began in August 1978, however its purchases from Trico increased in calendar year 1978.

The Department notes from its files that the preponderant share of Trico's sales in 1979 and 1980 were to original equipment manufacturers. Only one customer which serves the after market and imports reduced purchases from Trico and this was only in 1980. This customer represented less than one percent of Trico's 1980 sales.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department's of Labor's prior decision. The application is, thereofre, denied.

Signed at Washington, D.C., this 28th day of January 1981.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 81-4354 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-9723 and 10,696]

U.S. Steel Corp. Edgar Thomson-Irvin Works

Negative Determination 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 an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met:

(1) that a significant number or proportion of the workers in the workers' 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; and

(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.

The first investigation was initiated on August 4, 1980 in response to a petition which was filed by the United Steelworkers of America on behalf of workers at the U.S. Steel Corporation's Edgar Thomson-Irvin Works in Braddock and Dravosburg, Pennsylvania. The workers at Braddock plant produce semi-finished carbon steel products (primarily slab), which are shipped to the Dravosburg plant, where they are used in the production of finished carbon steel products. Workers at the Dravosburg plant produce cold rolled strip and sheet, hot rolled strip and sheet, tin coated and tin plated steel and coated sheet.

A second investigation was initiated on September 15, 1980 on behalf of workers at the Edgar Thomson-Irvin Works in Vandergrift, Pennsylvania. Workers at the Vandergrift plant produce silicon coated sheet which is known as electrical sheet.

The investigation revealed that criterion (3) has not been met.

A. Cold Rolled Sheet and Strip and Coated Sheet

U.S. Imports of cold rolled sheet and strip and coated sheet declined absolutely and relative to domestic shipments in 1979 compared to 1978, and in the first three quarters of 1980 compared to the same period in 1979.

Sales of cold rolled sheet and strip at the Edgar Thomson-Irvin Works increased in 1979 compared to 1978. A Department of Labor survey revealed that the surveyed customers of the Edgar Thomson-Irvin Works reduced their reliance on imported cold rolled sheet and strip in the first seven months of 1980 compared to the same period in 1979. Surveyed customers that reduced purchases from the Edgar Thomson-Irvin Works while increasing purchases of imported cold rolled sheet and strip accounted for an insignificant portion of the Works' decline in the sales of this product.

The survey revealed that Edgar Thomson-Irvin Works surveyed customers reduced their relative reliance on imported coated sheet in 1979 compared to 1978, and in the first seven months of 1980 compared to the same period in 1979. Imports accounted for a small percentage of the surveyed customers' total purchases of coated sheet.

B. Hot Rolled Sheet and Strip

The Edgar Thomson-Irvin Works' sales of hot rolled sheet and strip increased in the first half of 1980 compared to the same period in 1979.

Imports of hot rolled sheet and strip declined both absolutely and relative to domestic shipments in 1979 compared to 1978.

C. Tin Mill Products

A Department of Labor survey revealed that the Edgar Thomson-Irvin Works surveyed customers purchased a negligible amount of imported tin mill products. The ratio of imports to total purchases of tin mill products was insignificant in 1979 and the first seven months of 1980.

D. Silicon Electrical Steel

The Department of Labor survey revealed that customers with reduced purchases of electrical sheet from the Edgar Thomson-Irvin Works and increased purchases of imported electrical sheet accounted for an insignificant portion of the Works' decline in the sales of that product in the first eight months of 1980 compared to the same period of 1979.

Sales of electrical sheet at the Edgar Thomson-Irvin Works increased in 1979 compared to 1978.

E. Semi-Finished Steel

All the semi-finished steel produced at the Edgar Thomson-Irvin Works is used internally in the production of finished steel products.

Conclusion

After careful review, I determine that all workers of the U.S. Steel Corporation's Edgar Thomson-Irvin Works in Dravosburg, Braddock, and Vandergrift, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 223 of the trade Act of 1974.

Signed at Washington, D.C. this 28th day of January 1981.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 81-4355 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-28-M

LIBRARY OF CONGRESS

American Folklife Center; Board of Trustees

In accordance with Pub. L. 94-463, the Board of Trustees of the American Folklife Center announces its meeting to be held on March 13, 1981, in Dining Room A in the James Madison Memorial Library Building form 9:30 a.m. to 5:00 p.m. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center, (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Public Law 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American fold traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 81-4445 Filed 2-5-81; 8:45 am]

BILLING CODE 1410-01-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following meeting:

Name: Minimum Wage Study Commission
Date: Feb. 19 and 20, 1981.
Time: 10:30 a.m. on Feb. 19; 9 a.m. on Feb. 20
Place: 1430 K St. NW, Suite 700, Washington, DC 20005

Original notification of this meeting appeared in the **Federal Register** January 6, 1981.

Proposed Agenda

(1) Presentation of working paper on retail trade and service exemptions; student certification
(2) Presentation of final working paper and preliminary integrated report on indexation of the minimum wage
(3) Presentation of revised working paper on youth differential; also "The Effect of the Minimum Wage on the Labor Force Status of Youth"
(4) Report on agricultural exemptions
(5) Progress report on survey by the Institute of Social Research

Next meeting of the Commission will be held March 26 and 27, 1981.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Suite 500, Washington, DC 20005, telephone (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 81-4359 Filed 2-5-81; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 81-15]

NASA Advisory Council (NAC); Meeting

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:

Name of committee: NAC Space Systems and Technology Advisory

Committee, Informal Executive Subcommittee
Date and time: February 24, 1981, 8:30 a.m. to 4:30 p.m.
Address: NASA Headquarters, 600 Independence Ave., Room 647, Washington, DC
Type of Meeting: Open
Agenda:

February 24, 1981

8:30 a.m.—Chairperson's Remarks
8:45 a.m.—NASA Goals and Objectives
10:15 a.m.—Discussion of June 24–25, 1980, Meeting
11:15 a.m.—Subcommittee Chairperson's Reports
1:45 p.m.—Identification and Discussion of Future Activities
4:30 p.m.—Adjourn

FOR FURTHER INFORMATION CONTACT: Mr. C. Robert Nysmith, Executive Secretary of the Subcommittee, National Aeronautics and Space Administration, Code R, Washington, DC 20546 (202/755–3238).

SUPPLEMENTARY INFORMATION: The Informal Executive Subcommittee was established to provide overall guidance and direction to the space research and technology activities of the Space Systems and Technology Advisory Committee. The Subcommittee, chaired by Mr. Robert L. Johnson, is comprised of seven members.

The meeting will be open to the public up to the seating capacity of the room (approximately 15 persons including the Subcommittee members and participants).

Gerald D. Griffin,
Acting Associate Administrator for External Relations.
January 30, 1981.
[FR Doc. 81-4315 Filed 2-5-81; 8:45 am]
BILLING CODE 7510-01-M

[Notice 81-16]

NASA Advisory Council (NAC); Meeting

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the following meeting:
Name of Committee: NAC Space and Terrestrial Applications Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Satellite Communications Applications
Date and Time: February 24, 1981; 9:00 a.m.–4:30 p.m.
Address: National Aeronautics and Space Administration, Room 226A, Federal Building 10B, 600 Independence Avenue SW, Washington, DC 20546
Type of Meeting: Open
Agenda:

February 24, 1981

9:00 a.m.—Chairperson's Remarks
9:15 a.m.—Program Overview
10:00 a.m.—Review of 30/20 GHz Program: Alternative System Concepts; Selected Payload Configuration(s); and Plans for New Start
1:30 p.m.—General Discussion
4:30 p.m.—Adjourn

FOR FURTHER INFORMATION CONTACT: Dr. S. H. Durrani, National Aeronautics and Space Administration, Code EC, Washington, DC 20546 (202/755–3591).

SUPPLEMENTARY INFORMATION: The ad hoc Informal Subcommittee on Satellite Communications Applications was established to provide advice on the NASA Satellite Communications Program. The Subcommittee, chaired by Dr. John V. Harrington, is comprised of twelve members. Members of the public will be admitted to the meeting on a first-come, first-served basis and will be required to sign a visitor's register. The seating capacity of the room is 35 persons.

Gerald D. Griffin,
Acting Associate Administrator for External Relations.
January 30, 1981.
[FR Doc. 81-4316 Filed 2-5-81; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Nominations for Membership

February 2, 1981.

The National Science Board (NSB) is the policymaking body of the National Science Foundation (NSF). The Board consists of 24 Members appointed by the President, with the advice and consent of the Senate, for six-year terms, in addition to the NSF Director *ex officio*, as follows:

Terms Expire May 10, 1982

Dr. Raymond L. Bisplinghoff, Vice President for Research and Development, Tyco Laboratories, Inc., Exeter, New Hampshire
Dr. Lloyd M. Cooke, Vice Chairman, Economic Development Council of New York City, Inc.
Mr. Herbert D. Doan (Vice Chairman, National Science Board), Chairman, Doan Resources Corporation, Midland, Michigan
Dr. John R. Hogness, President, Association of Academic Health Centers, Washington, D.C.
Dr. William F. Hueg, Jr., Professor of Agronomy and Deputy Vice President and Dean, Institute of Agriculture, Forestry, and Home Economics, University of Minnesota
Dr. Marian E. Koshland, Professor of Bacteriology and Immunology, University of California at Berkeley
Dr. Joseph M. Pettit, President, Georgia Institute of Technology
Dr. Alexander Rich, Sedgwick Professor of Biophysics, Department of Biology, Massachusetts Institute of Technology

Terms Expire May 10, 1984

Dr. Lewis M. Branscomb (Chairman, National Science Board), Vice President and Chief Scientist, International Business Machines, Inc., Armonk, New York
Dr. Eugene H. Cota-Robles, Professor of Biology, Biology Board of Studies, University of California at Santa Cruz
Dr. Ernestine Friedl, Dean of Arts and Sciences and Trinity College, and Professor of Anthropology, Duke University
Dr. Michael Kasha, Distinguished Professor of Physical Chemistry, Institute of Molecular Physics, Florida State University
Dr. Walter E. Massey, Director, Argonne National Laboratory
Dr. David V. Ragone, President, Case Western Reserve University
Dr. Edwin E. Salpeter, J. G. White Professor of Physical Sciences, Cornell University
Dr. Charles P. Slichter, Professor of Physics and in the Center for Advanced Study, University of Illinois at Urbana-Champaign

Terms Expire May 10, 1986

Dr. Peter T. Flawn, President, University of Texas at Austin
Dr. Mary L. Good, Vice President and Director of Research, UOP, Inc., Des Plaines, Illinois
Dr. Peter D. Lax, Professor of Mathematics, Courant Institute of Mathematical Sciences, New York University
Dr. Homer A. Neal, Dean of Research and Graudate Development, and Professor of Physics, Indiana University, Bloomington, Indiana
Dr. Mary Jane Osborn, Professor and Head, Department of Microbiology, University of Connecticut School of Medicine
Dr. Donald B. Rice, Jr., President, The Rand Corporation, Santa Monica, California
Dr. Stuart A. Rice, Frank P. Hixon Distinguished Service Professor of Chemistry, The James Franck Institute, University of Chicago
(One vacancy)

Member Ex Officio

Dr. John B. Slaughter (Chairman, NSB Executive Committee), Director, National Science Foundation

Section 4(c) of the National Science Foundation Act of 1950, as amended, states that: "The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation."

The terms of eight Members of the National Science Board will expire on May 10, 1982. All Members of the 1982 class are eligible for reappointment except Dr. Lloyd M. Cooke who has been a Member of the Board for two six-year terms. Section 4(d) of the Act states that: "Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year."

The Board and the Director solicit and evaluate nominations for submission to the President. Nominations accompanied by biographical information may be forwarded to the Chairman, National Science Board, Washington, D.C. 20550, no later than April 1, 1981.

Any questions should be directed to Miss Vernice Anderson, Executive Secretary, National Science Board (202/357-9582).

Lewis M. Branscomb,

Chairman, National Science Board.

[FR Doc. 81-4392 Filed 2-5-81; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369-OL and 50-370-OL]

Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2—Reopened Operating License Proceeding); Order Reconvening Evidentiary Hearing

On November 25, 1980, the Licensing Board entered an order in the above-identified operating license proceeding granting the motion of Carolina Environmental Study Group (CESG) to reopen the hearing record and admitting CESG's revised Contentions 1 through 4 relating to the issue of hydrogen-generation control, a question which arises as a result of the accident at Three Mile Island.[1] Hearing schedules have been discussed during telephone conference calls with the Licensing Board and the parties on December 23, 1980, January 14, 1981 and January 28, 1981. Accordingly, it is this 29th day of January 1981.

Ordered

That in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, the evidentiary hearing in this proceeding shall reconvene at 9:30 a.m. on Tuesday, February 24, 1981, in the Auditorium of the Public Library of Charlotte and Mecklenburg County, 310 North Tyron Street, Charlotte, North Carolina 28202.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Administrative Judge.

[FR Doc. 81-4410 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

[1] *Duke Power Company* (William B. McGuire Nuclear Station, Units 1 and 2), Memorandum and Order Regarding CESG's Motion to Reopen Record, Slip Op. (November 25, 1980).

[Docket Nos. 50-369-OL and 50-370-OL]

Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Duke Power Company (William B. McGuire Nuclear Station, Units 1 and 2), Docket Nos. 50-369-OL and 50-370-OL, is hereby reconstituted by appointing the following Administrative Judge to the Board: Dr. Richard F. Cole. Dr. Cadet H. Hand, Jr., was a member of this Board but, because of a schedule conflict, is unable to continue his service on this Board.

As reconstituted, the Board is comprised of the following Administrative Judges:

Robert M. Lazo, Esquire, Chairman
Dr. Emmeth A. Luebke
Dr. Richard F. Cole

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Richard F. Cole, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 29th day of January 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-4411 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance.

The amendment consists of revising the definition of the term "Operable" and adding a Limiting Condition of Operation for implementing this revised definition.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 20, 1980, (2) Amendment No. 51 to License No. DPR-36 and (3) the Commission's related letters dated April 10, 1980 and January 21, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of January, 1981.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 81-4412 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey

Central Power and Light Company, and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the facility concerned with safety related snubbers. This change would revise the Technical Specifications by deleting some snubbers which are not required to be operable during reactor operations, deleting a snubber that supports secondary river water pipe system and adding a snubber which is considered part of the support of a safety related system and must be operable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 4, 1978, (2) Amendment No. 61 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of January 1981.

For the Nuclear Regultory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-4413 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and the Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to allow the facility to use a manual switchover of the Emergency Core Cooling System pumps from the Borated Water Storage Tank to the emergency sump during a loss of coolant accident after the Borated Water Storage Tank reaches a low level. The facility was previously licensed to require an automatic switchover feature.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 5, 1981, as revised January 9, 15, 19 and 22, 1981, (2) Amendment No. 36 to License No. NPF-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of January 1981.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-4414 Filed 2-5-81; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy Solicitation of Views on the Further Development of a Uniform Procurement System; Public Hearing

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Public Hearing.

SUMMARY: Public Law 96-83, the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et. seq.), provided that the Administrator for Federal Procurement Policy should develop and submit to the Congress, by October, 1980, a proposal for a Uniform Procurement System. Such a proposal was provided to the Congress on October 27, 1980. The statute further provided that by October 1981, the Administrator should develop and submit to the Congress a proposal for a management system to implement and enforce the Uniform Procurement System.

Notice is hereby given that the views of all interested parties are solicited with respect to the scope, content, philosophy and objectives of the management system proposal. The purpose of this hearing is to solicit management system alternatives from all interested parties and to ensure that they are considered in shaping the course and direction of this undertaking.

DATE AND TIME OF HEARING: The hearing, which shall be open to the public, will commence at 9:30 a.m. on February 19, 1981.

PLACE OF HEARING: The hearing will be held in Room 2008, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

PRESENTATION OF VIEWS: To ensure proper consideration, views must be submitted in writing to the Office of Federal Procurement Policy (OFPP) not later than February 19, 1981. Persons wishing to make an oral summary of their veiws at the hearing should make such a request to OFPP not later than February 16, 1981. Persons may appear on their own behalf or as representatives of any entity or any interested group whether public or

private to make oral presentations. Consolidation of comments by organization, association, industry or interest groups, however, is encouraged. Oral presentations will be limited to 15 minutes. OFPP will advise those requesting to make oral presentations of the approximate time for their delivery.

FOR FURTHER INFORMATION CONTACT: William Mathis, Principal Associate Administrator, Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, N.W., 9001 New Executive Office Building, Washington, D.C. 20503 (Telephone: 202-395-7207).

SUPPLEMENTARY INFORMATION: Supplementary information regarding the subject of this hearing is set forth in the attachment below.

Karen Hastie Williams,
Administrator.

Proposal for a UPS Management System

Objective

The objective of this project is to satisfy the pertinent requirements of Pub. L. 96-83 by (1) developing a proposal for a management system to implement and enforce the Uniform Procurement System; and (2) submitting the proposal to the Congress by October 1981.

Precis

In line with the statutory requirement, the proposal will define and describe the primary roles, responsibilities, missions and functions of the principal Federal participants in the procurement system: Office of Management and Budget, Office of Federal Procurement Policy (including the Federal Acquisition Institute), General Services Administration, Department of Defense, agency procurement offices, the Federal Acquisition Regulation Council, the Federal Supply Management Council and the Council on Uniform Procurement System. In addition, the proposal will address the specific management structures, processes and functions identified in the Uniform Procurement System proposal as component parts to the management system. It will also reflect and respond to the management objectives and governing principles cited in the Uniform Procurement System proposal. The Federal Supply Management Council and OFPP will define the roles, responsibilities and interfaces between the supply and acquisition functions.

A preliminary approach for developing the proposal will be to identify the several fundamental functions associated with the conduct of procurement in the executive branch—and to expand on each in terms of (1) organizational roles and responsibilities, and (2) procurement management features and processes. The fundamental functions would encompass the following areas: procurement policy; procurement regulation; procurement operations; program evaluation; procurement personnel training and support; and procurement research.

Project Schedule

This project will be pursued in four stages: Stage 1 (Project Initiation) will be completed by February 27; State 2 (Proposal Development) will be completed by May 22; Stage 3 (Proposal Coordination and Refinement) will be completed by July 31; and Stage 4 (Proposal Finalization and Submission) will be completed by October 23, 1981. Public hearings will be scheduled at appropriate times during the project.

[FR Doc. 81-4487 Filed 2-5-81; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21902, (70-6538)]

Alabama Power Co.; Proposal by Public Utility Company To Issue First Mortgage Bonds and Preferred Stock at Competitive Bidding

January 30, 1981.

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of the The Southern Company, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama proposes to issue and sell up to $200,000,000 aggregate principal amount of its first mortgage bonds ("new Bonds"). Of such amount it is proposed that up to $100,000,000 principal amount of new Bonds ("initial series") will be issued in March, 1981 or subsequent thereto, and up to $100,000,000 principal amount of new Bonds ("additional series") will be issued in one or more series from time to time not later than August 31, 1981. It is proposed that each series of new Bonds will have a term of not less than five nor more than 30 years and will be sold at competitive bidding for the best price obtainable but for a price to Alabama of less than 98% nor more than 101¾% of the principal amount thereof, plus accrued interest. The new Bonds will be issued under the Indenture dated as January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented by various indentures supplemental thereto, and as to be further supplemented by Supplemental Indentures to be dated as of the first day of the month during which each series of new Bonds is issued.

It is proposed that Alabama will decide on the term of each series of new Bonds after the date of the respective public invitation for proposals and then in each case notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of each bidding. It is also proposed that in each such notice Alabama may designate a lesser aggregate principal amount of the new Bonds of the particular series to be issued and sold than that previously specified in the respective public invitation for proposals, and that Alabama reserve the right in its discretion to designate a principal amount or term for the new Bonds of a particular series different from that theretofore specified by notice to prospective bidders not less than 24 hours prior to the time of each bidding.

Alabama will provide that none of the new Bonds will be redeemed for a five-year period commencing with the first day of the month of issuance, respectively, at a regular redemption price if such redemption is for the purpose or in anticipation of refunding such new Bond through the use, directly or indirectly, of funds borrowed by Alabama at an effective interest cost to Alabama of less than the effective interest cost to Alabama of the respective series of new Bonds. Such limitation will not apply to redemptions at a special redemption price by operation of the improvement (sinking) fund or the maintenance and replacement provisions of the above-mentioned Indenture or by the use of proceeds of released property. Alabama also will covenant that it will not redeem any of the new Bonds of a particular series, in any year prior to the fifth year after the issuance of such series, through the operation of the improvement (sinking) fund provisions

in a principal amount which would exceed the improvement fund requirement attributable to such series (i.e., 1% of the aggregate principal amount of such series). In addition, Alabama may make provision for a mandatory cash sinking fund for the benefit of the new Bonds of a particular series. Such sinking fund would retire up to 5% annually of the initial aggregate principal amount of the new Bonds of such series, commencing five years or later after the sale thereof. Alabama also may have the non-cumulative option, commencing five years or later after the sale, of increasing any such sinking fund payment by an amount not exceeding such sinking fund payment.

Alabama also proposes to issue up to $50,000,000 aggregate stated value of its preferred stock, with a stated value of up to $100 per share ("new Preferred Stock"), and to sell such securities at competitive bidding for the best price obtainable but for a price to Alabama of not less than 100% nor more than 102% of the stated value per share, which shall also be the public offering price per share. In addition, Alabama proposes to pay to the purchasers of the new Preferred Stock compensation for their services in purchasing and making a public offering of such shares, which compensation shall be included as part of the competitive bidding on the new Preferred Stock. It is proposed that the new Preferred Stock be issued in one or more series from time to time not later than August 31, 1981.

The terms of each series of the new Preferred Stock will be established by amendment to the charter of Alabama. Alabama may also make provision for a cumulative sinking fund for the benefit of the new Preferred Stock which would retire not more than 5% annually of the number of shares initially issued of the particular series, commencing five years or later after the sale, with the non-cumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming up to an additional like number of shares. Alabama will provide that no share of the new Preferred Stock will be redeemed for a five-year period commencing with the first day of the month of issuance, respectively, if such redemption is for the purpose or in anticipation of refunding such share directly or indirectly through the incurring of debt, or through the issuance of stock ranking equally with or prior to the new Preferred Stock as to dividends or assets, if such debt has an effective interest cost to Alabama or such stock has an effective dividend cost to Alabama of less than the effective dividend cost to Alabama of the respective series of the new Preferred Stock.

Alabama may request by amendment hereto that one or more of such sales of new Bonds or new Preferred Stock be excepted from the competitive bidding requirements of Rule 50. Alabama proposes to use the proceeds from each sale of the new Bonds and the new Preferred Stock, along with other funds, to finance its business as an electric utility company, primarily the repayment of outstanding short-term indebtedness and the payment of costs incurred in its on-going construction program, estimated at $487,318,000 for 1981.

Statements of the fees, commissions and expenses to be incurred in connection with the issuance of such series of new Bonds or new Preferred Stock will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Alabama Public Service Commission. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 23, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4416 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21904; (70-6544)]

Arkansas Power & Light Co.; Proposal by Public Utility Company To Lease Nuclear Fuel and for Lessor To Finance its Obligations Under the Lease Through Bank Borrowings and the Sale of Commercial Paper

February 2, 1981.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas"), First National Building, Little Rock, Arkansas 72213, a public utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to lease from a Delaware corporation ("Fuel Company") nuclear fuel, including facilities incident to its use, to be used in connection with its generation of electric power. The Fuel Company will be the successor to Southwest Fuel Company ("Southwest"), from which Arkansas has heretofore been leasing said Nuclear Fuel pursuant to Commission authorization in File No. 70-6185, and Southwest Contracts, Inc. ("SW Contracts"), which has advanced funds to Southwest. The nuclear fuel will be used to satisfy the fuel requirements of Arkansas Nuclear One Generating Station ("ANO"), located near Russellville, Arkansas. The Fuel Company is owned by a trust created by Lehman Leasing, Inc. ("Lehman Leasing"), a New York corporation, for the benefit of certain designated beneficiaries. Lehman Leasing is an affiliate of Lehman Brothers Kuhn Loeb Incorporated, and investment banking firm. Neither the trustees of said trust, the beneficiaries thereof, Lehman Leasing, Lehman Brothers Kuhn Loeb Incorporated, the Fuel Company, nor any persons affiliated with any of them are affiliated with Arkansas or any of its affiliated companies. The Fuel Company will acquire either all of the assets or all of the outstanding stock of Southwest and succeed to its rights and obligations

under the Fuel Lease, dated as of June 25, 1974, as amended and restated as of August 31, 1978 ("Fuel Lease"). The Fuel Company and Arkansas will simultaneously enter into a First Amendment to the Fuel Lease (the amended Fuel Lease hereinafter referred to as the "Lease").

Under the terms of the Lease, the Fuel Company will make additional payments to suppliers, processors and manufacturers, necessary to carry out the terms of Arkansas' contracts for nuclear fuel for ANO or Arkansas will make such payments and will be reimbursed by the Fuel Company; the Fuel Company may also make payments to future suppliers of nuclear fuel for ANO or Arkansas will make such payments, subject to reimbursement by the Fuel Company. The maximum commitment of the Fuel Company to make payments for nuclear fuel is $129,000,000 at any one time outstanding. Arkansas will be responsible for operating, maintaining, repairing, replacing and insuring the nuclear fuel and for paying all taxes and costs arising out of the ownership, possession or use thereof. The term of the Lease will be through September 1, 1983; on September 1, 1981 and on each suceeding September 1, the two-year remainder of the term will automatically be extended for an additional year, unless either party gives prior written notice of termination. In any event the Lease will terminate no later than September 1, 2018.

Payments under the Lease will be payable quarterly and will include (A) a quarterly lease charge, which will include an administrative charge of $15,000 per annum plus ⅛ of 1% per annum of the stipulated loss value, as defined in the Lease, payable by the Fuel Company to Lehman Leasing, and other allocated operational costs of the Fuel Company, and (B) a burn-up charge equal to the cost of the nuclear fuel consumed while the nuclear fuel is in the reactor and producing heat. When the nuclear fuel is not in the reactor and producing heat, Arkansas may elect to capitalize quarterly lease charges or daily portions thereof so long as the amount of credit under the Credit Agreement referred to below exceeds the sum of the stipulated loss value of the nuclear fuel, the amount of such charges and $1,000,000. Arkansas may consequently, subject to the foregoing limitation, defer rental payments until those times during commercial operation when the nuclear fuel is in the reactor and producing heat in the production of electric energy.

Arkansas may terminate the Lease at any time. The Fuel Company may terminate the Lease under certain circumstances, including among others, if it becomes subject to certain adverse rules, regulations or declarations with respect to its status or the conduct of its business, if there is a nuclear incident of sufficient magnitude, and by notice of a desire not to renew the Lease by September 1, 1981 and any subsequent September 1, followed by the lapse of the remaining term. Upon the occurrence of any event of termination, title to the nuclear fuel shall automatically be transferred to Arkansas. Within 120 days, but not less than 90 days after notice of termination, Arkansas will be unconditionally obligated to purchase the nuclear fuel from the Fuel Company at a purchase price equal to the sum of the stipulated loss value of the nuclear fuel plus the termination rent, as defined in the Lease, both computed as of the day of purchase. Upon consummation of such purchase, all obligations of Arkansas under the Lease will terminate except to the extent provided therein.

The Fuel Company will receive termination rights upon the occurrence of certain events of default. Upon the occurrence of an event of default, the Fuel Company may (a) treat the event of default as an event of termination with the results specified in the preceding paragraph and proceed at law or in equity for enforcement of the applicable provisions of the Lease or for damages, or (b) it may terminate the Lease. If the Fuel Company terminates the Lease as a result of the occurrence of an event of default, Arkansas' interest in the nuclear fuel will terminate and the Fuel Company may take possession of the nuclear fuel and sell it. In the event of such a termination, the Fuel Company may recover from Arkansas damages and expenses resulting from the breach of the Lease, all accrued and unpaid amounts owed to it by Arkansas, and liquidated damages.

Under the terms of the Lease the amount of the quarterly lease payments by Arkansas will be measured by, among other things, the amount of costs incurred by the Fuel Company in connection with its acquisition, ownership and processing of the nuclear fuel. Arkansas proposes to continue to charge the rent under the Lease to fuel expense and to account for the transaction as a lease rather than a purchase. The Fuel Company will finance its obligations under the Lease through a Credit Agreement, dated as of August 31, 1978, among Bank of America National Trust and Savings Association ("Bank"), a commercial bank, Southwest and SW Contracts, as amended and restated by the Bank and the Fuel Company ("Credit Agreements"). The initial amount of the Bank's commitment under the Credit Agreement will be $130,000,000. As required by the Lease, Arkansas would approve of the Fuel Company's entry into the Credit Agreement.

Under the Credit Agreement, the Fuel Company would issue and sell its commercial paper, supported by an irrevocable letter of credit issued by the Bank. The Fuel Company proposes to use Lehman Commercial Paper, Inc. as a dealer in connection with the sale of the commercial paper, which sale will be at a rate expected to be equal to the best rate available (including a ⅛ of 1% per annum dealer discount). Morgan Guaranty Trust Company of New York ("Depositary") will, under a Depositary Agreement act as issuing agent for the Fuel Company's commercial paper. Under the Credit Agreement, the Fuel Company could also make revolving credit borrowings to be evidenced by the Fuel Company's promissory notes. The initial term of the Credit Agreement will be through December 1, 1983; it may be extended for one year by the Fuel Company's giving notice prior to June 1, 1981, and each succeeding June 1 up to 2015, of its desire to so extend the term, and by the Bank's consenting to each such extension by September 1 of the year in which such notice is given. Arkansas has been advised that, based upon a commercial paper rate for the highest rated commercial paper of 17.5% per annum, the effective interest cost to the Fuel Company of its proposed borrowings would be 19.39% per annum, assuming all borrowings were made through the issuance of commercial paper and total borrowings were $129 million (the average outstanding borrowings expected).

In consideration of the Bank's commitment to issue the letter of credit and to make revolving credit loans, the Fuel Company will pay the Bank each quarter a fee of (A) ½ of 1% per annum on the difference between the Commitment and the average daily amount of revolving credit loans outstanding during that quarter, and (B) ¼ of 1% per annum of the sum of the aggregate face amount (if issued on a discount basis) and the aggregate principal amount and interest (if issued on an interest-bearing basis) of commercial paper outstanding during that quarter. Drawings under the letter of credit will bear no interest if repaid in full on the date when made. If not repaid on such date, such drawings will be automatically converted into a revolving

credit loan. Each revolving credit loan will bear interest (computed on the basis of a 360-day year) at a rate per annum equal to the greater of (i) the lending rate announced by the Bank from time to time for 90-commercial loans to its largest and most credit-worthy customers plus 2½% and (ii) the sum of (x) the secondary market bid rate as determined by the Bank from time to time for certificates of deposit of a principal amount equivalent to all outstanding revolving credit loans and having a maturity of 90 days and (y) 1% plus, in the case of (ii), the cost to the Bank of maintaining the actual percentage reserve required to be maintained under Regulation D of the Federal Reserve Board by the Bank in respect of a certificate of deposit of a principal amount equivalent to all outstanding revolving credit loans and having a maturity of 90 days. Arkansas has been advised that (1) if all borrowings were made by means of revolving credit loans the interest on which were based on the Bank's prime rate, such interest rate were 20% per annum and total borrowings were $129 million, the net effective interest cost to the Fuel Company would be 22.63% per annum, and (2) if all borrowings were made by means of revolving credit loans the interest on which was based on the secondary market bid rate for certificates of deposit of a principal amount equivalent to all such borrowings, such rate were 17.625% per annum and total borrowings were $129 million, the net effective interest cost to the Fuel Company would be 18.75% per annum.

The Bank, and the Depositary on behalf of the holders of the commercial paper, will receive an assignment of the rents and certain other obligations of Arkansas under the Lease as security for the Fuel Company's obligations to the Bank and to the holders of the commercial paper. Arkansas will agree in the Lease to acknowledge notice of the assignment. The security interest of the Bank in such rents and obligations will rank pari passu with the security interest of the Depositary in such rents and obligations. The Bank, for itself and for the benefit of the holders of the commercial paper, will receive a security interest in the nuclear fuel, as security for the Fuel Company's obligations to the Bank and to the holders of the commercial paper. The security interest in the nuclear fuel granted to the Bank for the benefit of the holders of the commercial paper will rank pari passu with the security interest in such Nuclear Fuel granted to the Bank itself.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The Nuclear Regulatory Commission has licensing and regulatory jurisdiction over the operation of ANO. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 26, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4417 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 30, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Sunstates Corporation

Common Stock, $1 Par Value (File No. 7-5182)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 23, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4418 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11593; (812-4529)]

New York Venture Fund, Inc., Venture Income Plus, Inc., and Venture Advisers, Inc.; Filing of Application for an Order Permitting Offers of Exchange and Granting Exemption

Notice is hereby given that New York Venture Fund, Inc. ("Fund"), Venture Income Plus, Inc., ("Income"), both of which are registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, and Venture Advisers, Inc. ("Advisers") 231 Washington Avenue, Suite No. 2, Santa Fe, New Mexico 87501, investment adviser and principal underwriter for Fund and Income (Fund, Income and Advisers are hereinafter collectively referred to as "Applicants"), filed an application on September 4, 1979, and an amendment thereto on November 10, 1980, for an order of the Commission (1) pursuant to Section 11(a) of the Act, permitting Fund and Income to offer their shares in exchange for shares of Money Shares, Inc., ("Money Shares"), a "money market" fund registered under the Act as an open-end, diversified, management investment company, and shares of other selected money market funds, on a basis other than their relative net asset values per share at the time of the exchange, and (2) pursuant to

Section 6(c) of the Act, exempting Applicants from the provisions of Section 22(d) of the Act to the extent necessary to permit the proposed offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representation contained therein which are summarized below.

The application states that, prior to November 1979, Calvin Bullock., Ltd., was the Fund's principal underwriter and that, since that time, Advisers has been the Fund's principal underwriter. The application states that Income was organized as a companion to Fund and that its shares became effectively registered under the Securities Act of 1933 on May 29, 1980. Applicants state that Fund and Income maintain a continuous public offering of their shares at their respective net asset values per share, and impose identical sales loads on such purchases. Applicants further state that no sales load is charged on the reinvestment of dividends or distributions on the shares of Fund and Income. Applicants state that shares of Fund and Income may be exchanged for each other at their relative net asset values subject to a $5 service charge payable to Adviser.

According to the application, Fund's shareholders presently have an exchange privilege for shares of Money Shares under which Fund's shares may be exchanged for shares of Money Shares at their relative net asset values plus a $5.00 service charge, and under which shares of Money Shares so received plus any shares of Money Shares received as dividends or distributions on those shares may be reexchanged at their relative net asset values for shares of Funds, subject to a $5.00 service charge. The application request that (1) the above exchange privilege be permitted to continue, (2) a similar exchange privilege be permitted between Income and Money Shares, and (3) similar exchange privileges be permitted with other selected money market funds.

Applicants state than any other money market fund that may become involved in the proposed offers of exchange (a "Selected Money Market Fund") must, like Money Shares: (1) be selected by Fund's or Income's board of directors; (2) be an open-end, diversified, management investment company registered under the Act; (3) not impose any charge on the redemption of its shares; (4) agree to the maintenance of records which indicate, as to any shareholder who has acquired shares as a result of an exchange of Fund or Income shares, the number of shares so acquired plus any shares acquired as a result of reinvestment of dividends or distributions on those shares, separate and apart from any records showing other of its shares acquired in any other manner by any such shareholder; and (5) invests entirely or primarily in short-term, money market instruments.

Applicants propose to permit a shareholder of a Selected Money Market Fund who acquired his shares through an exchange for shares of Fund or Income to reexchange such shares plus any shares received as a result of the reinvestment of any dividend or distribution on those shares ("Exchange Shares"), but not any other shares of the Selected Money Market Fund, for shares of the Fund or Income (whichever was originally exchanged) without the imposition of the sales charge described in the respective prospectuses but subject to a $5 service charge. Applicants state that this exchange privilege would not be available if the proceeds from the redemption of Exchange Shares are paid directly to the investor or, at his direction, to any person other than the Fund or Income. Applicants also state that the Fund and Income reserve the right to establish a limit on the number of exchanges which any investor may make within a specific period of time, but that limit will be not fewer than four per year.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security in such company or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter therefor shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Section 6(c) of the Act provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provisions of the Act and the rules thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the proposed exchange offers might violate Section 11(a) of the Act in that the exchanges would be on a basis other than the relative net asset values of the shares in view of the $5.00 service charge, and that the exercise of the requested exchangé privileges might violate Section 22(d) of the Act since an investor would be able to purchase shares of Fund or Income without payment of the customary sales charge described in their respective prospectuses.

Applicants submit that it would be unfair to existing investors in the Fund who have purchased Fund shares in reliance on the existing exchange privilege with Money Shares to deprive them of such an exchange privilege. It is further submitted that Income shareholders should have available to them the same exchange privileges as shareholders of Fund. Applicants also submit that the extension of the exchange privileges to shares of Selected Money Market funds in addition to Money Shares would benefit shareholders of Fund and Income in that they would be permitted to make broader choices in the money market funds available to them for this purpose. Applicants state that the reservation of the right to limit the exchanges made by an investor in the specific period would enable the Fund and Income to prevent any abuse of the exchange privilege which might have adverse effects on Fund or Income. Applicants further state that because any investor eligible for the exchange privileges will have been an investor in Fund or Income, he will have paid a sales charge on the acquisition of his shares and that no additional sales effort will be required in connection with the reacquisition of such shares and therefore, no additional sales charge should be imposed in connection with the reacquisition.

Notice is further given that any interested person may, not later than February 24, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such

request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4419 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

February 2, 1981.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the stock of:

American Israeli Paper Mills, Ltd.

11¾% Convertible Subordinated Debentures (Due November 15, 1997)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1981 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4420 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21901; (70–6547)]

Seneca Resources Corps.; Proposed Issuance and Sale of Short-Term Notes to Bank

January 30, 1981.

Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York 14203, a wholly-owned subsidiary of National Fuel Gas Company, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 thereof as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated January 4, 1980, in File No. 70–6372 (HCAR No. 21382), Seneca was authorized to borrow up to $15,000,000 pursuant to a line of credit with Houston National Bank ("Bank"). As of January 9, 1981, Seneca had $2,850,000 outstanding pursuant to the line of credit which was repaid through funds internally generated and funds received from system companies pursuant to a tax allocation procedure.

Seneca now proposes to renew its line of credit with the Bank up to an aggregate principal amount of $15,000,000 and enter into a loan agreement on subtantially the same terms and conditions as previously authorized by the Commission. Under the loan agreement, Seneca will have the right to borrow an amount, at any one time outstanding, not to exceed the lesser of $15,000,000 or a "Borrowing Base" established by the Bank. The Borrowing Base shall be determined by the Bank at its sole discretion, but shall never exceed 60% of the value of producing oil and gas reserves that Seneca has developed in the states of Texas, Oklahoma, and Louisiana. The loan agreement will extend for a period of one year from the date of the Commission's order in this proceeding. Seneca anticipates that the initial Borrowing Base under the loan agreement will be set at $6,000,000. The loan will be evidenced by a short-term note dated as of the date of issue, will mature not more than one year from the date of issue, and will be prepayable, at any time, in whole or in part, without penalty or premium.

Because the amount of unsecured debt the system may have outstanding at any one time is limited to 20% of the system's capitalization, any borrowings by Seneca under the loan agreement will be fully secured, so that the borrowing capacity of other system companies will not be impaired. The note will be secured under the terms of first mortgages on the producing reserves mentioned above. The note will bear interest at the prime rate of interest at the Bank as it fluctuates from time to time; however, under existing laws, the Bank cannot charge interest in excess of a maximum allowable interest rate, currently set at 21% per annum. The loan agreement will provide that, if the prime rate at the Bank rises above the maximum allowable interest rate and is subsequently reduced below that rate, the interest rate on the note would not be reduced below the maximum allowable interest rate until such time as the total amount of interest accrued on the note equals the amount of interest which would have accrued had the interest on the note been calculated at the prime rate.

Seneca has agreed to maintain deposits in its account at the Bank ("Average Daily Available Balance") which total 10% of (i) the amount available under the loan agreement or (ii) the Borrowing Base, whichever is lower, plus 10% of the amount drawn down by Seneca under the loan agreement. In the event that the Average Daily Available Balance is less than the required amount for a specified period, Seneca has agreed to pay the Bank a fee equal to the average prime rate of the Bank for the period multiplied by the amount of the deficiency in the Average Daily Available Balance. Assuming Seneca borrows the full amount available under the loan agreement and determines not to maintain the required Average Daily Available Balance, based on a 20.00% prime rate, the effective cost of money would be 24.00%. In addition, Seneca will be obligated to pay the reasonable fees and expenses of counsel for the Bank in connection with the preparation of the loan agreement and all transactions pursuant thereto. Other than such counsel fees, there will be no commitment fee or any other closing or related costs in connection with the above transactions.

Seneca proposes to draw down funds under this short-term note to supply working capital for the financing of commitments which Seneca has made in its gas exploration and development program and to finance gas exploration

and development. Seneca expects to repay the note with funds generated internally and by possible external financial arrangements.

Seneca's gas exploration and development program will consist of both exploratory drilling in new areas and the development of about five or six wells in each of the areas which oil is found. During the fourteen-month period between February 1, 1981, and March 31, 1982, Seneca anticipates spending about $13.2 million on exploration and development. (About $7.1 will be spend on exploration, while the other $6.1 million will be spent on the development of oil wells).

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Seneca requests that it be permitted to file the certificates required by Rule 24 relating to the proposed transaction on a quarterly basis.

Notice is further given that any interested person may, not later than February 25, 1981, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advise as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4421 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11596 (812-4789)]

Tax Free Money Fund, Inc.; Filing of an Application for an Order of Exemption

January 30, 1981.

Notice is hereby given that the Tax Free Money Fund, Inc. ("Applicant"), 605 Third Avenue, New York, New York 10158, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 23, 1980, and an amendment thereto on January 21, 1981, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on November 17, 1980, as an investment company designed to provide current income exempt from Federal income tax from a portfolio of high quality short-term municipal obligations selected for liquidity and stability of principal. The application also states that Preference Management Corp. will serve as the investment adviser to Applicant. A registration statement on Form N–1 under the Securities Act of 1933 covering shares of common stock of Applicant has been filed with the Commission, but, as of the date the application was filed, had not yet become effective. Applicant's common shares will be offered for sale to the public at net asset value without a sales charge.

Applicant represents that it will invest in a diversified portfolio of short-term municipal obligations whose interest payments are exempt from Federal income tax and in commitments to purchase such securities on a "when-issued" basis. These securities are issued by states, cities, municipalities or municipal agencies and will include, for example, Tax Anticipation Notes, Revenue Anticipation Notes, Bond Anticipation Notes, Grant Anticipation Notes, Construction Loan Notes and Short-Term Discount Notes. Applicant may also invest in Project Notes, which are instruments sold through the U.S. Department of Housing and Urban Development but issued by a state or local housing agency Applicant further states that the maturities of these instruments at the time of issue generally will range between three months and one year but Applicant may invest in municipal securities whose original maturities were in excess of one year if at the time of purchase the remaining time to maturity is less than one year. According to the application the dollar-weighted average maturity of Applicant's portfolio will at all times be 120 days or less.

Applicant represents that its investments will be limited to those obligations which are secured by the full faith and credit of the United States or are rated MIG–1 or MIG–2 by Moody's Investors Services Inc. ("Moody's"), or if the notes are not rated then they are of a quality equivalent to MIG–1 or MIG–2 as determined by Applicant's Board of Directors. In the case of Short-Term Discount Notes, Applicant states that the rating must be A–1 by Standard & Poor's Corporation ("S&P") or Prime –1 by Moody's or their equivalents as determined by Applicant's Board of Directors. With respect to Short-Term Discount Notes that are not rated, Applicant states that it may invest only in instruments judged by its Board of Directors to have equivalent characteristics and quality as referred to above. The Applicant may also purchase other types of tax-exempt instruments as long as they meet equivalent standards of quality prescribed above.

Applicant further states that all of the above instruments are generally offered on the basis of a quoted yield to maturity and the price of the security is adjusted so that relative to the stated rate of interest it will return the quoted rate to the purchaser. Applicant represents that it intends to declare its net income as a dividend to its shareholders on a daily basis and distribute it monthly, and that net income for this purpose will consist of all interest income accrued and original issued discount earned on the portfolio assets of the Applicant, less premium amortized and expenses accrued. According to the application, if the Applicant values its securities on an amortized cost basis there will be no calculation for unrealized capital gains or losses and because it will pay dividends daily when gains are realized and reduce or suspend daily dividends when losses are realized, Applicant's per share net asset value will remain at a constant $1.00. Applicant represents that the nature of the investments which it proposes to make have characteristics which are similar to those securities which are generally designated as "money market" instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with

respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation (i.e., valuing securities at cost, adjusted for amortization of premium or accretion of discount).

In support of the relief requested, Applicant states that sophisticated individual, professional and institutional investors are expected to own shares representing a large portion of the Applicant's total assets and that those shareholders, as well as investors with similar circumstances, will represent the most important source of potential investments in the Applicant. In this regard, Applicant states that its management's experience has been that in order to attract such investors and retain them as shareholders, the Applicant must have a stable net asset value, preferably at $1.00 per share, and a constant and steady flow of investment income. Based upon the experience of its management in managing portfolios of municipal securities, Applicant further states that it anticipates that with respect to municipal securities maturing in 120 days or less, there normally will be a negligible discrepancy between market value and the amortized cost value of such securities. On the basis of the foregoing, Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit its shareholders by enabling Applicant to more effectively maintain its $1.00 price per share while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant consents to the imposition of the following conditions in any order granting the exemptive relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review;[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instuments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; *Provided, however*, That it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1. above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the directors' consideration and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the directors' meetings. The documents preserved

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the directors in the exercise of their discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of municipal securities published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the directors determine present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 23, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Secuirities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4422 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5450]

Wackenhut Corp.; Application To Withdraw From Listing and Registration

January 30, 1981.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of The Wackenhut Corporation (the "Company") (Common Stock, $.10 par value) is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on December 23, 1980, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE, and believes that dual listing would fragment the market for its common stock.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before February 23, 1981, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-4423 Filed 2-5-81; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1972]

Rhode Island; Declaration of Disaster Loan Area

Kent and Newport Counties and adjacent counties within the State of Rhode Island constitute a disaster area as a result of damage caused by cold snap, extreme icing conditions, ice blocking the coastline, Narragansett Bay frozen over and ice formation which occurred on December 1, 1980 through January 16, 1981. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 2, 1981; and for economic injury until the close of business on October 30, 1981, at: Small Business Administration; District Office, 40 Fountain Street, Providence, Rhode Island 02903 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1981.

Roger H. Jones,

Acting Admininstrator.

[FR Doc. 81-4318 Filed 2-5-81; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1971]

Washington; Declaration of Disaster Loan Area

Skagit and Snohomish Counties and adjacent counties within the State of Washington constitute a disaster area as a result of damage caused by flooding which occurred on December 24-29, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 2, 1981, and for economic injury until the close of business on October 30, 1981, at: Small Business Administration, District Office, 915 Second Avenue, Federal Building, Room 1744, Seattle, Washington 98174 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1981.

Roger H. Jones,

Acting Administrator.

[FR Doc. 81-4317 Filed 2-5-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/363]

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 February 19, 1981, Room 8238 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the 23rd Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London, May 11, 1981. In particular the working group will discuss the following topics:

— Survival craft radio equipment
— Operational requirements for future EPIRBs
— Operational standards for shipboard radio equipment
— Maritime distress system

For further information contact: LT R.F. Carlson, US Coast Guard (G-OTM-3/32), Wash., D.C. 20593. Telephone: (202) 426-1345.

Dated: January 28, 1981.

James A. Treichel,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 81-4403 Filed 2-5-81; 8:45 am]

BILLING CODE 4701-07-M

[Public Notice CM-8/364]

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 9 a.m. on February 19, 1981, in the Grand Room of the Hyatt Regency, 500 Poydras Plaza, New Orleans, Louisiana 70140.

The purpose of the meeting is to prepare position documents for the 44th session of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization (IMCO) to be held in London, March 30–April 3, 1981. In particular, the working group will discuss the following topics:

—The proposed Code on Safety Measure for Diving systems
—The need for an international Code
—What requirements in the proposed Code will enhance diving safety
—What additional requirements should be included in the proposed Code to enhance diving safety
—What requirements should be included in the proposed Code to aid international movement of portable diving systems

For further information contact: Mr. Howard Hime, U.S. Coast Guard (G-MMT-2/12), Wash., D.C. 20593. Telephone: (202) 426-2160.

Dated: January 28, 1981.

James A. Treichel,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 81-4404 Filed 2-5-81; 8:45 am]

BILLING CODE 4701-07-M

VETERANS ADMINISTRATION

60-Bed Nursing Home Care Unit; Veterans Administration Medical Center, Jefferson Barracks Division, St. Louis, Missouri; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a 60-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC), Jefferson Barracks Division, St. Louis, Missouri.

The proposed project action would provide new construction for nursing home care beds adjacent to existing 93-Bed Nursing Home Care Unit. Project construction costs are estimated at a cost range of 7.4 to 8.9 million dollars. The new addition will be connected to the existing facility, with construction occurring primarily in the front and rear of the existing nursing home care unit. Support facilities will be sized to accommodate the new 60-beds. A new entrance road—drop off area also will be developed to provide adequate access.

Development of the project will have impacts on the human and natural environment affecting open space, air quality relative to construction activity, soil erosion and visual effects related to building design.

The mitigation of project impacts on the environment include: implementation of erosion-sedimentation control, and air quality controls. The project will be built in accordance with applicable federal, state and local environmental standards addressing the impacts identified.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs (003A), Room 950, Veterans Administration, 1425 K Street, NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Office (003A), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: January 29, 1981.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Associate Deputy Administrator.

[FR Doc. 81-4384 Filed 2-5-81; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Cancellation of Meeting

Notice is hereby given that the meeting scheduled to be held at 9 a.m., February 10, 1981, at the Veterans Administration Regional Office, 144 First Avenue, South, St. Petersburg, Florida, by the Station Committee on Educational Allowances, to consider the case of Lakeland College of Business and Fashion, is cancelled.

Dated: January 30, 1981.

Carlos L. Rainwater,

Director.

[FR Doc. 81-4383 Filed 2-5-81; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 25
Friday, February 6, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME:

9 a.m.-12 noon—1:30-5 p.m., Monday, February 9, 1981
2 p.m.-5 p.m., Tuesday, February 10
9 a.m.-4 p.m., Wednesday, February 11

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to public.

MATTERS TO BE CONSIDERED: Monday, February 9, 1981:

I. Approval of Agenda
II. Approval of Minutes From Last Meeting
III. Review of National Indian Report
IV. Review of Federal Response to Battered Women Report

Tuesday, February 10, 1981:

V. Review of Union Study II

Wednesday, February 11, 1981:

VI. Interim Appointment to Kentucky Advisory Committee
VII. Transmittal of North Carolina Advisory Committee Report entitled *Black/White Perceptions—Race Relations in Greensboro*
VIII. Action re: Missouri Advisory Committee report entitled *School Desegregation in the St. Louis and Kansas City Areas*
IX. Civil Rights Developments in the Western Region

MATTERS TO BE CONSIDERED: Wednesday, February 11, 1981:

X. Staff Director's Report
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports

FOR FURTHER INFORMATION PLEASE CONTACT: Charles Rivera or Barbara Brooks, Press and Communications Divison (202) 254-6697.

[S-205-81 Filed 2-4-81; 2:56 pm]

BILLING CODE 6335-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, February 10, 1981.

PLACE: Commission conference room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE DISCUSSED:

1. Freedom of Information Act Appeal No. 80-12-FOIA-18-CR, concerning a request for Commission's records.
2. Freedom of Information Act Appeal No. 80-FOIA-12-11-NO, concerning a request on behalf of a respondent for records in a charge file.
3. Freedom of Information Act Appeal No. 80-FOIA-12-12-NO, concerning a request on behalf of a respondent for records in a charge file.
4. Proposed procurement of a contractor to conduct the following: 1981 Employer Information Report Survey (EEO-1) 1981 State and Local Government Information Survey (EEO-4) 1980 Apprenticeship and Union Information Reports (EEO-2, EEO-2E and EEO-3)
5. A report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued February 3, 1981.

[S-207-81 Filed 2-4-81; 3:38 pm]

BILLING CODE 6570-06-M

3

[FR 161]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 5, 1981, 10 a.m.

MEETING PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING: The following matter has been added to the agenda:

Request by the Committee for Jimmy Carter for primary matching funds relating to the 1976, primary elections.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-202-81 Filed 2-4-81; 9:41 am]

BILLING CODE 6715-01-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUSLY ANNOUNCEMENT: 46 FR 9848, January 29, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, February 4, 1981.

PLACE: 1700 G Street NW., board room sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6577).

CHANGES IN THE MEETING: The following item have been added to the open meeting: Amendment to Charter's Regulations.

[S-203-81 Filed 2-4-81; 9:48 am]

BILLING CODE 6720-01-M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., February 11, 1981.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreements Nos. 8770-6 and 9988-5: Modifications of the United Kingdom/U.S.A. Gulf Westbound Rate Agreement and the Continental/U.S. Gulf Freight Association to permit minibridge operators to become members—Request for hearing on disapproval.
2. Docket No. 80-37: Used Household Goods—Tariff Filing Regulations Applicable to Carriers in the Foreign and Domestic Offshore Commerce of the United States—Review of comments submitted in response to notice of proposed rulemaking.
3. Proposed Rules to Exempt Certain Marine Terminal Agreements from the Filing and/or Approval Requirements of Section 15, Shipping Act, 1916.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-203-81 Filed 2-4-81; 9:23 am]

BILLING CODE 6730-01-M

6

INTER-AMERICAN FOUNDATION.

DATE: February 12–15, 1981.

PLACE: Camino Real Mariano, Escobedo 700, Mexico D.F., Mexico.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Chairman's Report.
2. President's Report.
3. Minutes of the November 10, 1980 Meeting.
4. Briefing on Mexico.
5. Project Visits.

CONTACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr., (703) 841–3812.

[S-206-81 Filed 2-4-81; 3:42 pm]

BILLING CODE 7025-01-M

7

SECURITIES 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 meetings during the week of February 9, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, February 10, 1981, at 10:00 a.m. An open meeting will be held on Wednesday, February 11, 1981, at 10:00 a.m.

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. 552b(c)(4)(8)(9)(A) and (10) 17 CFR 200.402(a)(4)(8)(9)(1) and (10).

Chairman Williams and Commissioner Loomis, Evans, and Friedman determined to hold the foresaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 10, 1981, at 10:00 a.m., will be:

Subpoena enforcement action.
Litigation matters.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Settlement of injunctive action.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Consideration of *amicus* participation.
Regulatory matters bearing enforcement implications.
Personnel security matters.
Opinion.

The subject matter of the open meeting scheduled for Wednesday, February 11, 1981, at 10:00 a.m., will be:

4. Consideration of whether to adopt Rule 11Aa2–1 under the Securities Exchange Act of 1934 (the "Act") which would designate certain securities as national market system securities and related amendments to Rule 11Aa3–1 under the Act which would require, among other things, that over-the-counter securities designated as national market system securities be subject to real-time transaction reporting. In addition, if the Commission determines to adopt Rule 11Aa2–1, it may also consider whether to propose amendments to that Rule which would expand the number of securities which would be designated as national market system securities. For further information, please contact Bruce Beatt at (202) 272–2838.

2. Consideration of whether to affirm action, taken by the Duty Officer, approving a release to extend the comment period on the proposed amendments to Form N–1Q until February 27, 1981. For further information, please contact Jane A. Kanter at (202) 272–2112 or Anthony A. Vertuno at (202) 272–2107.

3. Consideration of whether to affirm action, taken by the Duty Officer, granting the application by American Federation of Labor and Congress of Industrial Organizations Mortgage Investment Trust, registered under the Investment Company Act of 1940 (the "Act") as an open-end, non-diversified, management investment company, requesting an order, pursuant to Section 22(e)(3) of the Act permitting a partial suspension of payments in redemption and order granting such relief on a temporary basis. For further information, please contact Philip K. Holl at (202) 272–3033.

Consideration of whether to issue a release to amend Regulation S–K and various general rules and regulations of the several Securities Acts that would require registrants (except registered investment companies) subject to the reporting requirements of FASB Statement No. 33, "Financial Reporting and Changing Prices," as amended, to include the specified supplementary information in filings with the Commission. A safe harbor provision would be extended to the disclosure of information on the effects of changing prices. For further information, please contact Clarence M. Staubs or James D. Hall at (202) 272–2133.

5. Consideration of whether to issue a release adopting amendments to: (1) Rules 242 and 252 concerning the availability of the small offering exemptions under Rule 242 and Regulation A respectively, for limited offers and sales of securities of certain issuers, and (2) Rule 30–1 of the Commission's rules relating to general organization to delegate authority to the Director of the Division of Corporation Finance to approve application for relief under Rules 242(a)(5)(V) and 252(g).

In addition, the Commission will consider whether to issue a release proposing an amendment to Rule 252(c) which would add a new disqualification for issuers and certain related parties who are subject to Commission orders entered pursuant to Section 15(c)(4) of the Securities Exchange Act of 1934 involving the filing of false reports with the Commission. For further information, please contact Michael J. Eizelman at (202) 272–2644.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marcia MacHarg at (202) 272–2468.

February 3, 1981.

[S-204-81 Filed 2-4-81; 8:45 am]

BILLING CODE 8010-01-M

federal register

Friday
February 6, 1981

Part II

Department of Labor

Wage and Hour Division, Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum 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 Government Contract 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.

Alabama:	
AL78-1080	Sept. 22, 1978
AL80-1042	Jan. 4, 1980
AL80-1068	June 6, 1980
AL80-1069	June 6, 1980
AL80-1070	June 6, 1980
AL80-1091	Sept. 5, 1980
AL81-1123	Dec. 30, 1980
Iowa:	
IA80-4045	Aug. 8, 1980
IA80-4046	Aug. 8, 1980
IA80-4047	Aug. 22, 1980
IA80-4050	Aug. 8, 1980
Kentucky:	
KY80-1089	Aug. 15, 1980
KY80-1090	Aug. 22, 1980
KY80-1094	Aug. 22, 1980
KY80-1095	Aug. 22, 1980
KY80-1096	Aug. 22, 1980
KY80-1097	Aug. 22, 1980
KY80-1098	Aug. 22, 1980
KY80-1101	Aug. 29, 1980
Louisiana: LA80-4084	Nov. 7, 1980
Maryland: MD80-3042	Aug. 29, 1980
Michigan:	
MI80-2063	Aug. 15, 1980
MI80-2042	Aug. 15, 1980
MI80-2053	July 11, 1980
MI80-2062	Aug. 15, 1980
MI80-2065	Aug. 15, 1980
MI80-2066	Aug. 22, 1980
MI80-2068	Aug. 22, 1980
Mississippi: MS80-1082	July 25, 1980
New Hampshire: NH81-3010	Jan. 23, 1981
New Jersey: NJ80-3013	June 27, 1980
New York:	
NY79-3030	Aug. 31, 1979
NY79-3032	Oct. 12, 1979
NY79-3036	Dec. 21, 1979
NY80-3020	Apr. 4, 1980
NY80-3023	Apr. 11, 1980
NY80-3041	July 7, 1980
NY80-3049	Aug. 29, 1980
NY80-3050	Aug. 29, 1980
NY80-3057	Sept. 19, 1980
Pennsylvania:	
PA80-3010	Apr. 4, 1980
PA80-3012	Feb. 15, 1980
PA80-3011	Feb. 22, 1980
PA80-3037	Apr. 21, 1978
PA80-3056	Oct. 3, 1980
PA80-3062	Oct. 31, 1980
PA80-3071	Oct. 24, 1980
PA80-3074	Dec. 12, 1980
Texas:	
TX80-4018	Mar. 14, 1980
TX80-4076	Oct. 10, 1980
TX80-4077	Oct. 10, 1980
TX80-4085	Nov. 7, 1980
Vermont: VT81-3007	Jan. 16, 1981
West Virginia: WV80-3016	May 30, 1980

Supersedeas Decisions 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:	
AL80-1074 (AL81-1183)	July 18, 1980.
AL80-1117 (AL81-1184)	Dec. 12, 1980.
Iowa: IA80-4049 (IA81-4010)	Sept. 19, 1980.
Maryland:	
MD78-3046 (MD81-3004)	May 19, 1978.
MD79-3010 (MD81-3005)	May 11, 1979.
MD77-3119 (MD81-3012)	Sept. 9, 1977.
Nevada:	
NV79-5102 (NV81-5102	Mar. 9, 1979.
NV79-5107 (NV81-5103	Mar. 9, 1979.

Cancellation of General Wage Determination Decisions

None.

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

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION AL78-1080 MODIFICATION 6
(43 FR 43152 SEPTEMBER 22, 1978)

CALHOUN COUNTY, ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS	8.90	.55			.08
ELECTRICIANS	13.45	.55	3%+.40		½of 1%
PLUMBERS & PIPEFITTERS	12.90	.65	.65		.12

DECISION AL80-1042 MODIFICATION 1
(45FR 1341, JANUARY 4, 1980)

MOBILE, ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS	11.71	1.195	.95	a+b	.035
ELECTRICIANS	12.77	.70	3%+.40		.05
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	12.04	.65	.50		.05
PAINTERS:					
Brush	11.50	.65	.40		.01
Paperhanger	11.75	.65	.40		.01
Spray	12.50	.65	.40		.01
PLUMBERS & PIPEFITTERS & STEAMFITTERS	13.65	.70	1.10		.05
SPRINKLER FITTERS	12.80	.85	1.20		.08

DECISION AL80-1068 MODIFICATION 1
(45FR 38238, JUNE 6, 1980)

ETOWAH COUNTY, ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	12.85	.66	.85		.10
CARPENTERS:					
MILLWRIGHT	11.55	.65	.50		
ELECTRICIANS	13.45	.55	3%+.40		½of1%
GLAZIERS	9.00				
IRONWORKERS	12.35	.76	.82		.06
PAINTERS	9.00				
PLUMBERS & PIPEFITTERS	12.90	.65	.65	a	.12
ROOFERS	10.25		.40		.10
SHEET METAL WORKERS	12.28	.79	1.07		.09
SPRINKLER FITTERS	12.80	.85	1.20		.08
TRUCK DRIVERS:					
Up to but not including 1½ tons	8.03	.50			
1½ up to but not including 3 tons	8.26	.50			
3 up to but not including 5 tons	8.54	.50			
5 tons and over including special equipment	8.71	.50			
Heavy duty - off the road trucks	8.83	.50			

DECISION AL80-1069 MODIFICATION 1

(45FR 38239, JUNE 6, 1980) TUSCALOOSA COUNTY, ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS	11.10		.40		.05
ELECTRICIANS	13.45	.55	3%+.40		½of1%
IRONWORKERS	12.35	.76	.82		.06
PLUMBERS & PIPEFITTERS	12.60	.37	.35		.08
SHEET METAL WORKERS	12.28	.79	1.07		.09
TILE SETTERS	10.85		.40		.05

DECISION AL80-1070 MODIFICATION 1

(45FR 38239 JUNE 6, 1980) COLBERT & LAUDERDALE COS., ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	12.85	.66	.85		.10
BOILERMAKERS	11.75	1.275	1.10		.04
BRICKLAYERS:					
Bricklayers & Blocklayers & Stonemasons	12.66				
Saw Operator	12.91				
CARPENTERS:					
Carpenters, soft floor layers	11.95		.35		.10
Piledrivermen	12.20		.35		.10
Millwrights	12.45		.35		.10
CEMENT MASONS:					
Cement Masons	10.40	.40			
Power Tool Operators	10.65	.40			
ELECTRICIANS:					
Electricians	12.70	.55	3%+.70		
Cable Splicers	12.95	.55	3%+.70		
ELEVATOR CONSTRUCTORS	11.68	1.195	.95	a+b	.035
IRONWORKERS	11.57	.75	.75		.08
PAINTERS					
Commercial	9.35	.40	.25		.05
Industrial	10.50	.40	.25		.05
PLASTERERS	10.69	.40			
PLUMBERS & STEAMFITTERS	13.85	.85	1.00		.13
ROOFERS	10.25				
SHEET METAL WORKERS	12.28	.79	1.07		.09
SPRINKLER FITTERS	12.80	.85	1.20		.08
POWER EQUIPMENT OPERATORS					
GROUP A	12.13	.60	.65		.05
GROUP B	10.59	.60	.65		.05
GROUP C	9.67	.60	.65		.05

DECISION AL80-1091 MODIFICATION 1
(45FR 59094, SEPTEMBER 5, 1980)

JEFFERSON, SHELBY, & ST. CLAIR COUNTIES, ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS	13.45	.55	3%+.40		½ of 1%
IRONWORKERS	12.35	.76	.82		.06
PLUMBERS & PIPEFITTERS	12.70	.73	1.00		.09
ROOFERS	10.25		.40		.10
SHEET METAL WORKERS	12.28	.79	1.07		.09

DECISION AL81-1123 MODIFICATION 1
(45FR 86184 DECEMBER 30, 1980)

MONTGOMERY COUNTY, ALABAMA BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS	11.68	1.195	.95	a+b	.035
GLAZIERS	9.30	.60	.70		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA80-4045 - Mod.#2 (45 FR 53046 - August 8, 1980) Dubuque Co., Iowa Building Construction					
CHANGE:					
Asbestos workers	$14.66	.60	1.10		.20
Ironworkers:					
Southeast portion of Co.	15.245	.75	.75		.30
Roofers	11.16		.50		
ADD:					
Elevator Constructors' Probationary Helper	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA80-4046-Mod. #4 (45 FR-53047-August 8, 1980) Johnson Co., Iowa Building Construction					
CHANGE:					
Asbestos workers	$14.66	.60	1.10		.20
Carpenters	12.20	.75	.65		.10
Electricians	14.07	.65	3%+1.00		3/4%
Millwrights	14.00	.65	1.30		.25
Piledrivermen	12.70	.75	.65		.10
Roofers	11.95				
OMIT:					
All rates and classifications for Line Construction					
ADD:					
Line Construction					
Group I - lineman; all rigs setting assembled "H" fixtures and steel transmission structures	13.26	.45	7%	b	1/2%
Group II - blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling and setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	1/2%
Group III - groundman	8.62	.45	7%	b	1/2%
Group IV - groundman-truck driver	8.75	.45	7%	b	1/2%
Group V - pole treating truck driver	8.49	.45	7%	b	1/2%
Group VI - pole treating specialist	10.21	.45	7%	b	1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision IA80-4047 - Mod. #2 (45 FR 56273-August 22, 1980) Linn Co., Iowa Building Construction					
CHANGE:					
Asbestos workers	$14.66	.60	1.10		.20
Carpenters	12.20	.75	.65		.10
Piledrivermen	12.70	.75	.65		.10
Roofers	11.95				
Soft Floor layers	12.20	.75	.65		.10
OMIT:					
All rates and classifications for Line Construction					
ADD:					
Elevator Constructors' Probationary Helper	50%JR				
Line Construction					
Group I - lineman; all rigs setting assembled "H" fixtures and steel transmission structures	13.26	.45	7%	b	3%
Group II - blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling and setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	3%
Group III - groundman	8.62	.45	7%	b	3%
Group IV - groundman-truck driver	8.75	.45	7%	b	3%
Group V - pole treating truck driver	8.49	.45	7%	b	3%
Group VI - pole treating specialist	10.21	.45	7%	b	3%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision IA80-4050-Mod.#2. (45 FR 53049 - August 8, 1980) Scott Co., Iowa Building Construction					
CHANGE:					
Asbestos workers	$14.66	.60	1.10		.20
Cable splicers	15.84	.70	7.5%		.06
Electricians	14.84	.70	7.5%		.06
Ironworkers	15.245	.75	.75		.30

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. KY80-1089 - MOD. #3 (45 FR 54613 - August 15, 1980) Warren County, Kentucky					
CHANGE:					
BOILERMAKERS	14.50	1.275	1.20		.04
CARPENTERS, LATHERS & SOFT FLOOR LAYERS	10.90	.70	.65		.05
CEMENT MASONS & PLASTERERS	12.00				.01
PLUMBERS	15.22	1.05	1.60		.15
PILEDRIVERMEN	11.15	.70	.65		.05
POWER EQUIPMENT OPERATORS:					
Class A	13.12	.50	1.00		.08
Class B	10.38	.50	1.00		.08
Class C	9.61	.50	1.00		.08

Decision No. KY80-1090 - Mod. #3 (45 FR 56280-56283 - August 22, 1980) Hardin, Jefferson, and Meade Counties, Ky.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	14.45	.60	1.75		
Boilermakers	14.50	1.275	1.20		.04
Carpenters & Lathers	12.35	.70	.65		.05
Cement Masons	11.59	1.00	.80		.08
Laborers					
Group I	8.80	.55	.70		.03
Group II	9.50	.55	.70		.03
Group III	9.70	.55	.70		.03
Group IV	9.85	.55	.70		.03
Group V	10.00	.55	.70		.03
Group VI	10.70	.55	.70		.03
Piledrivermen	12.60	.70	.65		.05
Soft Floor Layers	12.35	.70	.65		.05
P.E.O.					
Class A	13.12	.50	1.00		.08
Class B	10.38	.50	1.00		.08
Class C	9.61	.50	1.00		.08

DECISION NO. KY80-1094 - MOD. #3 (45 FR 46278-46280 - August 22, 1980) Henderson County, Kentucky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	14.50	1.275	1.20		.04
ELECTRICIANS					
Wiremen	13.73	.50	3%		1/8of1%
Cable Splicers	13.98	.50	3%		1/8of1%
POWER EQUIPMENT OPERATORS:					
CLASS A	13.12	.50	1.00		.08
CLASS B	10.38	.50	1.00		.08
CLASS C	9.61	.50	1.00		.08

Decision No. KY80-1095 - Mod. #3 (45 FR 56276 - 56278 - August 22, 1980) Boyd County, Ky.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	12.50	1.275	1.20		.04
P.E.O.					
Class A	13,12	.50	1.00		1.08
Class B	10.38	.50	1.00		1.08
Class C	9.61	.50	1.00		1.08

DECISION NO. KY80-1096 - MOD. #3 (45 FR 56283-56285 - August 22, 1980) Franklin County, Kentucky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	14.45	.60	1.75		
BOILERMAKERS	14.50	1.275	1.20		.04
ELEVATOR CONSTRUCTORS					
Mechanic	14.61	1.345	.95		.035
Helper	10.23	1.345	.95		.035
PLUMBERS & PIPEFITTERS WEST 3/4 OF COUNTY, INCLUDING THE CITY OF FRANKFORT					
Plumbers	16.02	1.05	1.60		.15
POWER EQUIPMENT OPERATORS					
CLASS A	13.12	.50	1.00		.08
CLASS B	10.38	.50	1.00		.08
CLASS C	9.61	.50	1.00		.08

DECISION NO. KY80-1097 - MOD. #3 (45 FR 56274 - 56275 - August 22, 1980) Fayette County, Kentucky	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	14.45	.60	1.75		
BOILERMAKERS	14.50	1.275	1.20		.04
ELEVATOR CONSTRUCTORS:					
Mechanics	14.61	1.345	.95		.035
Helpers	10.23	1.345	.95		.035
POWER EQUIPMENT OPERATORS:					
CLASS A	13.12	.50	1.00		.08
CLASS B	10.38	.50	1.00		.08
CLASS C	9.61	.50	1.00		.08

Decision No. KY80-1098 - Mod. #2 (45 FR 56285 - August 22, 1980) Fort Campbell (located in Christian County, Ky., and Montgomery County, Tn.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	14.50	1.275	1.20		.04
Carpenters & Soft Floor Layers	12.10	.45	.25		.07
Electricians					
Wiremen (Ky. portion)	13.15	.50	13%		½ of 1%
Cable Splicers (Ky. portion)	13.40	.50	13%		½ of 1%
Laborers					
Group I	8.75	.40	.70		
Group II	8.90	.40	.70		
Group III	9.25	.40	.70		
Millwrights & Piledrivermen	12.60	.45	.25		.07
P.E.O. (Kentucky portion)					
Class A	13.12	.50	1.00		.08
Class B	10.38	.50	1.00		.08
Class C	9.61	.50	1.00		.08

DECISION NO. KY80-1101 - MOD. #3 (45 FR 57919-57921 - August 29, 1980) McCracken County, Kentucky	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	14.50	1.275	1.20		.04
ELECTRICIANS					
Wiremen	13.15	.50	13%		½ of 1%
Cable Splicers	13.40	.50	13%		½ of 1%
LINE CONSTRUCTION:					
Linemen & Equipment Operators	13.05	.70	13%		½ of 1%
Cable Splicers	13.30	.70	13%		½ of 1%
Groundmen Truck Drivers	9.79	.70	13%		½ of 1%
Groundmen	9.53	.70	13%		½ of 1%
POWER EQUIPMENT OPERATORS:					
CLASS A	13.12	.50	1.00		.08
CLASS B	10.38	.50	1.00		.08
CLASS C	9.61	.50	1.00		.08
ROOFERS	11.30		.10		

DECISION NO. LA80-4084 - MOD. #3 (45 FR 74347 - November 7, 1980) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Sheet metal workers:					
Zone 2	$12.75	3%+.75	1.11		.16
Zone 3	14.12	.55	.80		.16

DECISION NO. LA81-4002 - MOD. #2 (46 FR 1520 - January 6, 1981) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Sheet metal workers:					
Zone 2	12.75	3%+.75	1.11		.16
Zone 3	14.12	.55	.80		.16

DECISION NO. MD80-3042 - MOD. #1
(45 FR 57924 - August 29, 1980)
Cecil County, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ASBESTOS WORKERS	$12.45	.85	.95		.02
BOILERMAKERS	14.275	1.275	1.00		.04
BRICKLAYERS	12.58	.90	.75		.07
LABORERS:					
Laborers	7.40	.35	.60		.075
Power Tool Operators	7.50	.35	.60		.075
Pipelayers, Wagon Drill Operators, Air Track Drillers, Burners (demolition)	7.90	.35	.60		.075
Jackhammer Operators	7.65	.35	.60		.075
ROOFER, WATERPROOFER	10.25	.60	.45		

DECISION NO. MI80-2063 Mod#2
(45 FR 54619 August 15,1980)
Alger , Baraga, Chippewa, Dickerson, Gogebic, Boughton, Keweenaw, Mackinac, Marquette & Ontonagon Cos. Michigan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Chippewa & Mackinac Cos.	$14.35	1.05	1.78		
CARPENTERS:					
Piledrivermen	12.14	.75	.90		
ELECTRICIANS:					
Dickinson County					
Contracts $50,000 and over & all Industrial Work	12.62	.75	3%+1.00		1%
Contracts less than $50,000	11.25	.75	3%+1.00		1%
Chippewa & Mackinac Cos.	12.20	.75	3%+1.00		15.00p/m
PLUMBERS & STEAMFITTERS	13.93	.92	.90		.05
SHEET METAL WORKERS	13.13	.92	1.32		.25

DECISION NO. MI80-2042 Mod#4
(45 FR 48417 July 18,1980)
Statewide, Michigan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
KENT, MONTCALM, MECOSTA & the West ½ of IONIA Counties only					
Brush	$10.55	.50	.25		.02
Bridges over Highway or Railroads	10.80	.50	.25		.02
Bridge Work over Rivers, Lakes & Electrical Sub Stations	11.05	.50	.25		.02
Spray, Pressure Roller, Steam Cleaning, Sandblasting or Waterblasting	11.30	.50	.25		.02
IRONWORKERS:					
ZONE 2	13.86	.97	1.30		.20
LANDSCAPE LABORERS:					
CLASS "A"					
Zone 1	7.85				
Zone 2	7.43				
CLASS "B"					
Zone 1	5.96				
Zone 2	5.54				
LINE CONSTRUCTION:					
ZONE 1					
Lineman - Technician	15.75	1.50	11%		½%
Cable Splicer	16.42	1.50	11%		½%
Combination Equipment Ops. & Groundman	12.64	1.50	11%		½%
Combination Drivers & Groundman	11.90	1.50	11%		½%
Groundman	10.95	1.50	11%		½%

DECISION NO. MI80-2053 Mod#2 (45 FR 47045 July 11, 1980) Kent county, Michigan	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
Brush	$10.55	.50	.25		.02
Tapers	10.55	.50	.25		.02

DECISION NO. MI80-2062 Mod#3 (45 FR 54615 August 15,1980) Alcona, Alpena, Charlevois, Emmet, Grand Traverse, Leelanau, Mason, Muskegon, Oceana, Oscoda & Presque Isle, Michigan	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$14.35	1.05	1.78		
BRICKLAYERS:					
Muskegon & Oceana Counties					
Bricklayers & Stonemasons	11.995	.90	.75		
ELEVATOR CONSTRUCTORS:					
Alcona, Alpena, Ocscoda & Presque Isle					
Elevator Constructor	14.02	1.195	.95	a	.035
Elevator Constructor Helper	70%JR	1.195	.95	a	.035
IRONWORKERS:					
Remaining Counties	13.86	.97	1.30		.20
ROOFERS:					
Mason, Muskegon & Oceana Counties	10.62	.67		1.10	.04

DECISION NO. MI80-2065 Mod#2 (45 FR 54623 August 15,1980) Allegan, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo Counties Michigan	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Remaining Counties	$14.35	1.05	1.78		
PAINTERS:					
Allegan Co. (Northern Part)					
Brush	10.55	.50	.25		.02
Spray	11.30	.50	.25		.02
Allegan Co. (S.E.¼) and Kalamazoo County					
Brush, Drywall Taper & Pan Roller	11.90	.70	.40		
Swing Stage, Structural Steel	12.55	.70	.40		
Spray	12.95	.70	.40		
Berrien County					
Brush	12.30				
Structural Steel 12% of scale					
Calhoun County					
Brush, Roller	11.20		.70		
Clinton, Eaton & Ingham Cos.					
Brush, Roller & Tapers	13.30	.65	.40		.0025
Structural Steel	13.70	.65	.40		.0025
Spray and Sandblasting	14.05	.65	.40		.0025
Jackson County					
Brush & Roller	13.25	1.25	1.50	1.25	
Spray	13.875	1.25	1.50	1.25	
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chickming, New Buffalo & Three Oaks Townships), Calhoun, Kalamazoo Cos. and Bellevue, Vermontville, Kalmo and Walton Townships in Eaton County	10.66	.75	.90		.01

DECISION NO. MI80-2065 Mod #2 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWNSHIPS IN INGHAM COUNTY					
Linemen - Technician	$15.75	1.50	11%		½%
Cable Splicer	16.42	1.50	11%		½%
Combination Equipment Oprs. & Groundman	12.64	1.50	11%		½%
Combination Driver & Groundman	11.90	1.50	11%		½%
Groundman	10.97	1.50	11%		½%

DECISION NO. MI80-2066 Mod#2 (45 FR 56290 August 22,1980) Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Remainder of Counties	$14.35	1.05	1.78		.02
BRICKLAYERS:					
Remainder of Counties					
Marble-Tile-Terrazzo Workers	13.22		.20		
CARPENTERS:					
Sanilac (except the west 5 miles) & St. Clair Cos.					
Soft Floor Layers	13.09	1.10	8%	9%	.03
ELECTRICIANS:					
Bay Co. & Southern ½ of Iosco Co.	14.51	.75	3%+.81		½ of 1%
Genesee, Lapeer & Shiawassee Cos.	14.27	.75	3%+11%		.01
Saginaw & Tuscola Cos.	14.15	.75	3%+1.25		½ of 1%
Remainder of Counties	16.20	1.65	3%+1.20		.06
GLAZIERS:					
St. Clair County	13.44	.80	1.20		
PAINTERS:					
Western ½ of Shiawassee Co.	13.30	.65	.40		.0025
PLUMBERS & STEAMFITTERS:					
Genesee, Lapeer & Shiawassee Cos.	14.84	1.17	1.70		.03
Remainder of Huron Co., St. Clair & Sanilac Cos.	13.15	1.30	1.75	1.69	.07
SHEET METAL WORKERS:					
Genesee, Lapeer & Shiawassee Cos.	13.08	.89	1.40	1.00	.04

DECISION NO. MI80-2066 Mod #2 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES					
Linemen - Technician	$15.75	1.50	11%		½%
Cable Splicer	16.42	1.50	11%		½%
Combination Equipment Ops. & Groundmen	12.64	1.50	11%		½%
Combination Driver & Groundman	11.90	1.50	11%		½%
Groundman	10.97	1.50	11%		½%

DECISION NO. MI80-2068 Mod#2 (45 FR 56296 August 22,1980) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Monroe Co.	$16.14	.60	1.60		.03
Twps. of Bridgewater, Dexter, Freedom, Lima, Lydon, Manchester, Sharon, & Sylvan in Washtenaw Co.	14.35	1.05	1.78		
BRICKLAYERS & STONEMASONS:					
Washtenaw County	17.07		1.50		.02
Remainder of Counties & East of Hwy #23 in Monroe County	14.18	1.28	8%+.60	11%	.06
CEMENT MASON:					
South of Hwy #151 in Monroe County	13.80	.70	1.10		.02
Washtenaw County	17.07		1.50		.02
ELECTRICIANS:					
Monroe County					
Building	15.30	.85	3%+.95		.3%
Remainder of Counties					
Building	16.20	1.65	3%+1.20		.06
Residential	16.20	1.65	3%+1.20		.06
ELEVATOR CONSTRUCTORS:					
Washtenaw County					
Constructors	15.14	1.195	.95	a	.035
Helpers	70%JR	1.195	.95	a	.035
GLAZIERS:					
Building	13.44	.80	1.20		
Residential	8.30	.80	1.45		
IRONWORKERS:					
Monroe County	15.76	1.06	1.73		.09

DECISION NO. MI80-2068 Mod #2 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Washtenaw County	$17.07		1.50		.02
PAINTERS:					
Brush, Roller	13.25	1.25	1.50	1.25	
Spray	13.875	1.25	1.50	1.25	
PLASTERERS:					
Washtenaw County	17.07		1.50		.02
PLUMBERS & STEAMFITTERS:					
Remainder of Counties Plumbers	13.15	1.30	1.75	1.69	.07
ROOFERS:					
Monroe County	12.98	1.06	1.50		.02
SHEET METAL WORKERS:					
Monroe County	13.225	1.06	1.91		.075
SOFT FLOOR LAYERS:					
Remainder of Counties	13.09	1.10	8%	9%	.03
TILE & TERRAZZO WORKERS:					
Washtenaw County	17.07		1.50		.02
LABORERS - BUILDING, RESIDENTIAL & HEAVY					
Washtenaw County:					
GROUP 1	10.89	.75	.50	1.25	.04
GROUP 2	11.09	.75	.50	1.25	.04
GROUP 3	11.21	.75	.50	1.25	.04
Wayne, Oakland & Macomb Cos.					
GROUP 1	10.91	1.10	1.15	1.35	.04
GROUP 2	10.99	1.10	1.15	1.35	.04
GROUP 3	11.16	1.10	1.15	1.35	.04
GROUP 4	11.14	1.10	1.15	1.35	.04
GROUP 5	11.41	1.10	1.15	1.35	.04
GROUP 6	11.24	1.10	1.15	1.35	.04
GROUP 7	11.29	1.10	1.15	1.35	.04
GROUP 8	11.66	1.10	1.15	1.35	.04

DECISION NO. MI80-2068 Mod #2 (Cont.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
CLASS "A"	$ 7.85				
CLASS "B"	5.96				
LINE CONSTRUCTION:					
Wayne, Macomb & Remainder of Washtenaw, Monroe & Oakland Counties					
Linenen - Technician	15.75	1.50	11%		3%
Cable Splicer	16.42	1.50	11%		3%
Combination Equipment Ops. & Groundman	12.64	1.50	11%		3%
Combination Driver & Groundman	11.90	1.50	11%		3%
Groundman	10.97	1.50	11%		3%

DECISION MS80-1084 MODIFICATION 4
(45FR 49815 JULY 25, 1980)

HINDS COUNTY, MISSISSIPPI
BUILDING CONSTRUCTION

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.69	.45	.50		
BOILERMAKERS	12.75	1.275	1.10		.04
BRICKLAYERS:					
Bricklayers	11.15	.25	.10		.05
Stone, block, & marble masons	11.15	.25	.10		.05
Caulkers, pointer, & Cleaner	11.15	.25	.10		.05
Tile & Terrazzo setters	11.00	.25	.10		.05
ELECTRICIANS:					
Electricians	12.25	.35	3%+.50		.04
Cable Splicers	12.50	.35	3%+.50		.04
ELEVATOR CONSTRUCTORS	10.92	1.195	.95	a+b	.035
GLAZIERS	9.84				
PLUMBERS, STEAMFITTERS, & PIPEFITTERS	12.03	1.05	1.00		
SHEET METAL WORKERS	12.05	.45	.50		.10

DECISION NO. NH81-3010 - MOD. #1
(46 FR 7733 - January 23, 1981)
Rockingham County, New Hampshire

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
General Contracts less than $200,000:					
Brush	7.67		.25		
General Contracts $200,000 and over:					
Brush	8.96		.25		

DECISION NO. NJ80-3013 - MOD. #3
(45 FR 43635 - June 27, 1980)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
Zone 5	13.21	1.00	1.35		.08
BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, TERRAZZO WORKERS:					
Zone 1	12.45	.75	1.00		.04
Zone 2	12.55	1.15	1.35		.01
Zone 4	12.80	.80	1.00		.03
DOCKBUILDERS AND PILEDRIVERMEN:					
Zone 2	13.25	1.85	1.78	1.01	.03
ELECTRICIANS & CABLE SPLICERS:					
Zone 1	14.42	7%	3%+2.05		.01
Zone 2	15.27	7%	3%+.80		.15
Zone 3	13.55	7%	3%+1.50		.05
Zone 4	13.90	7%	3%+1.10		.04
Zone 5	14.73	7%	3%+.85		.03
GLAZIERS:					
Camden, Gloucester and Salem Cos.	11.93	.95	1.80		.01
LINE CONSTRUCTION:					
Zone 1:					
Linemen, Cable Splicers, and Equipment Operators	14.42	7%	3%+2.05		.75%
Groundmen	12.47	7%	3%+2.05		.75%
Zone 2:					
Linemen, Cable Splicers, Truck Drivers, Heavy Equipment Operators and Technicians	15.27	7%	3%+.80		.75%

DECISION NO. NJ80-3013 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: CONT'D					
Zone 3:					
Linemen	13.55	7%	3%+1.50		3/4%
Groundmen and Winch Operators	11.10	7%	3%+1.50		3/4%
Zone 4:					
Linemen	13.90	7%	3%+1.10		.75%
Line Digger, Truck Driver	9.43	7%	3%+1.10		.75%
Groundmen	10.58	7%	3%+1.10		.75%
Zone 5:					
Linemen, Equipment Operator, Technician	15.30	.60	3%+.60		.75%
Truck Driver	11.10	.60	3%+.60		.75%
Groundman	10.37	.60	3%+.60		.75%
LINE CONSTRUCTION - RAILROAD ONLY:					
Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties					
Linemen	12.75	11%	8.7%		.2%
Line Equipment Operator	12.18	11%	8.7%		.2%
Groundmen Winch and Truck Operators	9.82	11%	8.7%		.2%
Groundmen	8.31	11%	8.7%		.2%
Dynamite Men	10.67	11%	8.7%		.2%
Transit Men	12.56	11%	8.7%		.2%
Street Light Mechanic	9.75	11%	8.7%		.2%
PLUMBERS & PIPEFITTERS:					
Zone 2	13.95	.77	1.45	1.00	.10

DECISION NO. NJ80-3013 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (EXCLUDING STEEL ERECTION):					
Group 1	16.91	7%	15%		3%
Group 2	15.09	7%	15%		3%
Group 3	14.21	7%	15%		3%
Group 4	14.10	7%	15%		3%
Group 5	13.87	7%	15%		3%
Group 6	13.38	7%	15%		3%
Group 7	13.09	7%	15%		3%
Group 8	12.92	7%	15%		3%
Group 9	12.87	7%	15%		3%
Group 10	12.75	7%	15%		3%
Group 11	12.70	7%	15%		3%
Group 12	12.46	7%	15%		3%
Group 13	12.06	7%	15%		3%
Group 14	11.89	7%	15%		3%
Group 15	11.55	7%	15%		3%
Group 16	9.57	7%	15%		3%
POWER EQUIPMENT OPERATORS: STEEL ERECTION:					
Group 1	18.72	7%	15%		3%
Group 2	16.91	7%	15%		3%
Group 3	16.00	7%	15%		3%
Group 4	15.26	7%	15%		3%
Group 5	13.48	7%	15%		3%
Group 6	13.09	7%	15%		3%
Group 7	12.94	7%	15%		3%
Group 8	12.57	7%	15%		3%
Group 9	12.01	7%	15%		3%

DECISION NO. NY79-3030 - Mod #3
(44 FR 51481 August 31, 1979)
Steuben County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
Twps. of Prattsburgh & Pulteney, Village of Hammondsport, Pleasant Valley to Rheims, Village of Tyrone to Watkins Glen					
Carpenters	10.76	.95	1.45		.005
Millwrights & Piledrivermen	10.86	.95	1.45		.005
Carpenters & Piledrivers, Heavy & Highway	10.28	.95	1.45		.005
Twps. of Troupsburg, Hartsville, Fremont, Wayland, Jasper, Hornellsville, Avoca, Cohocton, Bath, Canisteo, Howard, Dansville, Wheeler, Cameron, Greenwood, & West Union					
Carpenters & Soft Floor Layers	11.20	.80	1.35		.02
Millwrights & Piledrivermen	11.45	.80	1.35		.02
Carpenters, Heavy & Highway	10.53	.80	1.35	b	.025
Diver Tender	11.70	.80	1.35		.02
Remainder of County					
Carpenters & Soft Floor Layers	10.51	.60	1.35		.02
Millwrights & Piledrivers	10.76	.60	1.35		.02
Carpenters & Piledrivers, Heavy & Highway	10.73	.60	1.35	b	.025
PLUMBERS & STEAMFITTERS					
Remainder of County	12.40	.60	1.05		.15

DECISION NO. NY79-3030 - Mod. #3 (Cont'd)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	

DECISION NO. NY79-3030 - Mod. #3 (Cont'd)

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe Type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holdays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday.

DECISION NO. NY79-3031 - Mod. #3
(44 FR 59061 - October 12, 1979)
Chemung County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS, Cement Masons, Marble Setters, Plasterers, Stone Masons, Terrazzo Workers & Tile Setters	11.60	.60	.50		
GLAZIERS	9.97	.45	.65		.03
LINE CONSTRUCTION					
Electrical Overhead & Underground Distrubution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	

DECISION NO. NY79-3032 - Mod. #3 (Cont'd)

LINE CONSTRUCTION (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. NY79-3036 - Mod. #4
(44 FR 56402 - December 21, 1979)
Oneida County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	14.63	1.275	10%		.03
ELECTRICIANS					
Verona and Vienna Twps. West of State Highway 13					
Electricians	14.30	.87	3%+1.10		.07
Cable Splicers	15.30	.87	3%+1.10		.07
Remainder of County					
Electricians	13.55	.80	3%+ .60		.07
Cable Splicers	14.75	.80	3%+ .60		.07
ELEVATOR CONSTRUCTORS	13.025	1.195	.95	b+c	.035
ELEVATOR CONSTRUCTORS HELPERS	9.12	1.195	.95	b+c	.035
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	6.51				
LINE CONSTRUCTION					
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	

DECISION NO. NY79-3036 - Mod. #4 (Cont'd)

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	12.555	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.16	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	11.86	1.40	3%+1.00	a	
All Pipe type Cable Installations, Maintenance Jobs or Projects	10.46	1.40	3%+1.00	a	
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. NY79-3036 - Mod. #4 (Cont'd)

POWER EQUIPMENT OPERATORS: BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.11	1.25	1.25	a	.15
CLASS 2	12.43	1.25	1.25	a	.15
CLASS 3	11.06	1.25	1.25	a	.15
CLASS 4	13.90	1.25	1.25	a	.15
CLASS 5	13.61	1.25	1.25	a	.15
CLASS 6	13.11	1.25	1.25	a	.15
CLASS 7	14.11	1.25	1.25	a	.15

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, providing employee has worked fove consecutive working days before and the working day after the holiday.

CLASSIFICATIONS:

CLASS 1 - Air Plako, Asphalt and Blacktop Roller, Automated Concrete Spreader (CMI or equiv.), Automated Fine Grade Machine(CMI), Backhoe, Belt Placer, Blacktop Spreader (such as Barber Greene & Blaw Knox), Blacktop Plant (automated), Blast or Rotary Drill (Truck or cat mounted), Boom Truck, Cableway, Caisson Auger, Carry-all Scraper-Self loading, Central Mix Plant (Automated), Cherry Picker - over five (5) ton capacity, Compressor, Pump Generator or Welding Machine (when used in a battery of not more than four), Crane, Crusher - Rock, Derrick, Diesel Power Unit, Dragline, Dredge, Dual Drum Paver, Elevation Grader (self-propelled or towed), Elevator Hoist-Two Cage, Excavator-All Purpose-Hydraulically operated, Fork Lift (Factory rating 15 ft or more), Front End Loader (4c.y. and over), Gradall, Grader (Power), Head Tower (Saurman or equal), Hoist (2 or 3 Drum), (LCM's) work Boat Operator, Light plants; compressors and generators, Locomotive, Maintenance Engineer, Maintenance Welder, Mine Hoist, Micking Machine or Mole, Overhead Crane - Fixed Permanent, Pile Driver, Quarry Master or Equivalent, Refrigeration Equip. For Soil Stabilization, Sea Mule, Shovel, Side Boom, Slip Form Paver, Straddle Buggy (Ross Carrier, Lumber Carrier), Tractor Drawn Belt Type Loader (Euclid Loader), Trenching Machine (digging Capacity of over 4 ft. depth), Tug Operator (Manned, rented equip. excluded), Tunnel Shovel, Vibro or sonic Hammer Controls (when not mounted in proximity to the Rig Operator)

DECISION NO. NY79-3036 - Mod. #4 (Cont'd)

POWER EQUIPMENT OPERATORS:
BUILDING CONSTRUCTION (CONT'D)

CLASS 2 - "A" Frame Truck, Blacktop Plant (non-automatic), Boring Machine, Bulldozer, Cage-Hoist, Carry-All Scraper, Central Mix Plant (non-automated), Cherry Picker - five (5) tons and under, Compressor (500 C.F. and over), Concrete Paver (Single Drum over 16S), Concrete Pump, Core Boring Machine, Drill Rigs - Tractor mounted, Elevator as a material hoist, Fork Lift (factory rating less than 15 ft.), Front End Loader (under 4 c.y.), Gunite Machine, High Pressuer Boiler (151bs. & over), Hoist (one drum), Hydraulic Breaking Hammer (Drop Hammer), Kolman Plant Loader (screening gravel), Maintenance Grease Man, Mixer for stabilized base-self propelled (Seaman Mixer), Monorail Machine, Parapet Concrete or Pavement Grinder, Post Hole Digger (truck or tractor mounted), Power sweeper (Wayne or similar), Pump 4" and over, Pump-Crete or Squeeze-Crete, Road Widener (front end of Grader of self propelled), Roller, Shell Winder (motorized), Snorkel (overhead arms), Snowblower control man, Trenching Machine (digging capacity of 4 ft. or less), Tugger Hoist, Vibro Tamp, Well Drill, Well Point Systen (Submersible Pumps when used in lieu of well-point system), Which (motor driven), Winch Truck Winch Cat

CLASS 3 - Compressor (up to 500 C.F.), Concrete Paver or Mixer (under 16S), Concrete Pavement Spreaders and Finishers (not automated), Conveyor(over 12 ft.), Electric Submersible Pump (4" and over), Farm Tractor with or without accessories, Fine Grade Machine (not automated), Fireman, Form Tamper, Generator (2,500 Watts and over), Grout pump Hydraulic Pump, Mechanical Heaters, More than two (2) Mechanical Heaters or any Mechanical Heater or Heaters whose combined output exceeds 640,000 BTU per hour (manufacturer's rating) plus one self contained heating unit (i.e. Sundog or Air Heat type, New Holland Hay Dryer type excluded), Mulching Machine, Oiler, Parts Man, Post Driver (Truck or Tractor Mounted), Power Driven Welding Machine - 300 amp. and over (other than all electric) one Welding Machine under 300 amp. will not require an engineer unless in a battery, Power Heaterman (hay dryer), Pump (under 4"), Revinous Widener (road widener), Single Light Plant, Steam Cleaner or Jenny, Tractor with or without towed accessories.

CLASS 4 - Master Mechanic

CLASS 5 - Twoer Crane, Quad 9 Bulldozer or Multibowl Scraper

CLASS 6 - Crane or Derrick with a boom length over 300 ft. including jib.

CLASS 7 - Crane or Derrick with a boom length over 150 ft. including jib.

DECISION NO. NY80-3020 - Mod. #2
(45 FR 23262 - April 4, 1980)
Bronx, Kings, Queens, New York,
& Richmond Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
Carpenters & Soft Floor Layers					
New Construction of one or two family homes, condominiums, or town houses up to 2 stories	11.35	1.66	1.33	.85	.05
All Others	13.35	1.85	1.78	.95	.05
Millwrights	13.35	1.85	1.78	1.11	.04
Dockbuilders & Piledrivermen	13.25	1.85	1.78	1.01	.05
IRONWORKERS					
Ornamental Finisher	12.62	1.21	3.55	1.00	.14
MARBLE SETTERS					
Setters & Cutters	12.55	1.21	1.71	f	
Carvers	12.70	1.21	1.71	f	
Polishers	12.23	1.21	1.71	f	
Crane Operators	10.55	1.21	1.71	f	
PLASTERERS					
Kings	12.45	1.45		1.45	
PLUMBERS					
Kings, Queens	13.40	2.10	2.14	1.19	.22
SHEET METAL WORKERS	15.24	1.928	1.69		.16
SPRINKLER FITTERS & STEAMFITTERS	14.43	2.75	1.12	1.00	.07
TILE SETTERS	12.325	1.15	1.10		
TILE SETTERS HELPERS	10.71	1.055	.77		
IRONWORKERS					
Structural	12.95	1.86	4.45	1.85+1	.11

DECISION NO. NY80-3023 - Mod. #4
(45 FR 25010 - April 11, 1980)
Westchester County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
Building	11.95	1.40	1.25	1.30	.135
Heavy & Highway	12.85	1.40	1.25	1.30	.135
Dockbuilders & Piledrivermen	13.25	1.85	1.78	1.01	.05
Soft Floor Layers	13.35	1.85	1.78	.95	.05
ELECTRICIANS	14.27	6%	9½%+b	10%	½%+.02
IRONWORKERS					
Ornamental	12.62	1.21	3.85	1.00	.14
MARBLE SETTERS					
Setters & Cutters	12.55	1.21	1.71	g	
Carvers	12.70	1.21	1.71	g	
Polishers	12.23	1.21	1.71	g	
Crane Operators	10.55	1.21	1.71	g	
TILE SETTERS	12.675	1.15	1.10		
LINE CONSTRUCTION					
Commercial Line Work Linemen, Cable Splicer, Boring Machine Operator, Heavy Equipment Operator, Heavy Driver Groundman, Driver-Groundman, Groundman, Dynamite Man, Compressor Operator	14.27	6%	9½%+b	10%	.02
Maintenance, Service & Repair for cities, towns & villages of traffic signal systems, fire alarm systems (outside municipal systems not on private property) and street lighting systems. Seasonal outside decorative lighting, Cable TV systems, overhead & underground when installed on public streets & right of ways					
Linenan	11.82	6%	9½%+b	10%	.02
Compressor Operator	9.85	6%	9½%+b	10%	.02
Lamp Changer	9.20	6%	9½%+b	10%	.02
IRONWORKERS					
Structural	12.95	1.86	4.45	1.85+c	.11

DECISION NO. NY80-3041 - Mod. #2
(45 FR 45801 - July 7, 1980)
Nassau & Suffolk Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
Nassau County (Remainder of County					
Carpenters & Soft Floor Layers	13.35	1.85	1.78	.95	.05
Millwrights	13.35	1.85	1.78	1.11	.04
Dockbuilders & Piledrivermen	13.25	1.85	1.78	1.01	.05
DIVERS	15.69	1.875	1.78	1.03	.05
DIVER TENDERS	12.30	1.875	1.78	1.03	.05
ELECTRICIANS	15.10	7%+.60	17½%	8½%	1½%+.05
IRONWORKERS					
Ornamental Finisher	12.62	1.21	3.55	1.00	.14
Stone Derricknen & Riggers	14.62	2.23	1.51	1.30	.01
MARBLE SETTERS					
Setters & Cutters	12.55	1.21	1.71	j	
Carvers	12.70	1.21	1.71	j	
Polishers	12.23	1.21	1.71	j	
Crane Operators	10.55	1.21	1.71	j	
PAINTERS					
Nassau County (Remainder of County)					
Painters Spray, Open Steel, Swinging Scaffold, Rolling Scaffold 18' or over	10.82	1.59	1.90	.70	.05
Sandblasting	12.37	1.59	1.90	.70	.05
PLUMBERS	13.92	1.59	1.90	.70	.05
Nassau County Building, Heavy & Highway	12.75	1.10	1.54	1.10	.25
Suffolk County Building, Heavy & Highway	13.65	1.57	2.05	1.30	.37
ROOFERS					
Compositing, Damp & Waterproofer	11.23	1.52	2.74	2.00	.01
SPRINKLER FITTERS & STEAMFITTERS	14.43	2.75	1.12	1.00	.07
TILE SETTERS	12.325	1.15	1.10		
TILE SETTERS FINISHERS	10.71	1.055	.77		
IRONWORKERS					
Structural	12.95	1.86	4.45	1.85+g	.11

DECISION NO. NY90-3041 - Mod. #2 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
HEAVY AND HIGHWAY CONSTRUCTION					
Concrete & curb form setters, asphalt rakers	9.50	10%	13%	.75+a	
Asphalt workers & roller boys, asphalt top shovelers & smoothers, asphalt tampers	9.30	10%	13%	.75+a	
Jackhammers, & drill men, hoppermen, carpenters' tenders, pipe jointers & setters, concrete laborers (structures), stone spreading laborers, trackmen, grading & excavating laborers, yard laborers, puddlers on concrete pavement, asphalt plant (batcher & hopper men), all other unskilled laborers	8.90	10%	13%	.75+a	

DECISION NO. NY80-3049 - Mod. #2
(45 Fr 57932 - August 29, 1980)
Ulster County, New York

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ASBESTOS WORKERS	13.45	1.07	.66		.02
IRONWORKERS	11.10	1.86	3.75	1.60	.01
PLUMBERS & STEAMFITTERS					
Twps. of Wawrsing, Plattekill, Marlboro & Shawangunk	12.05	1.10	1.90		.15
Remainder of County	12.60	2.15	1.00	1.30	.10
LINE CONSTRUCTION					
Electrical Overhead & Underground Distrubution Work					
Journeyman Linenan & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transimission Line Work and Lighting for Athletic Fields					
Journeyman Linenan & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Linenan & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	

DECISION NO. NY80-3049 - Mod. #2 (Cont'd)

LINE CONSTRUCTION CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, anB Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. NY80-3050 - Mod. #2
(45 FR 57939 - August 29, 1980)
Albany, Rensselaer, Saratoga & Schenectady Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	14.63	1.275	10%		.03
CARPENTERS					
Saratoga County (Twps. of Day, Hadley, Edinburg, Corinth & Moreau)					
Carpenters & Soft Floor Layers	12.25	.55	.90	a	.005
Millwrights	12.50	.55	.90	a	.005
Piledrivers	12.40	.55	.90	a	.005
DIVERS	15.69	1.875	1.78	1.03	.05
DIVER TENDERS	12.30	1.875	1.78	1.03	.05
TRUCK DRIVERS, Building					
Straight Winch, Transit Mix on job site, Road Oilers, Dump Panel, Pick-up, Water & Fuel Trucks on site (including nozzle)	10.62	1.10	1.00		.12
Euclid or similar equipment	10.86	1.10	1.00		.12
Lowboy or lowboy trailers	11.01	1.10	1.00		.12
LABORERS					
Building Construction					
Albany County (Remainder of County), Rensselaer County (Twps. of North Greenbush, East Greenbush, Schodack, Nassau, Stephentown, & Rensselaer City)					
GROUP I	10.32	.90	1.20		.12
GROUP II	10.47	.90	1.20		.12
GROUP III	10.495	.90	1.20		.12
GROUP IV	10.545	.90	1.20		.12
GROUP V	10.595	.90	1.20		.12
GROUP VI	10.57	.90	1.20		.12
GROUP VII	10.795	.90	1.20		.12
Saratoga County (Twps. of Day Hadley, Edinburg, Corinth, Moreau, South Glen Falls, Providence, Greenfield, Wilton, Northumberland, Galway, Milton, Saratoga Springs, Charlton, Ballston, Malta, & Clifton Park) & Schenectady County					
GROUP I	10.54	.85	1.10		.07
GROUP II	10.69	.85	1.10		.07
GROUP III	10.715	.85	1.10		.07
GROUP IV	10.765	.85	1.10		.07
GROUP V	10.815	.85	1.10		.07
GROUP VI	10.79	.85	1.10		.07
GROUP VII	11.015	.85	1.10		.07

DECISION NO. NY90-3050 - Mod. #2 (Cont'd)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead & Underground Distribution Work					
Journeyman Lineman & Technician	11.60	1.40	3%+1.00	a	
Cable Splicer	15.35	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	10.44	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	9.28	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer)	9.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman-Experienced	8.70	1.40	3%+1.00	a	
All Overhead Transmission Line Work and Lighting for Athletic Fields					
Journeyman Lineman & Technician	13.25	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.925	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	10.60	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.26	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	9.94	1.40	3%+1.00	a	
Sub-Station, Switching Structures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems					
Journeyman Lineman & Technician	13.95	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Digging Machine Operator, Groundman Dynamite Man	12.555	1.40	3%+1.00	a	
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	11.16	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Driver Mechanic, Groundman - Experienced	10.46	1.40	3%+1.00	a	

DECISION NO. NY90-3050 - Mod #2 (Cont'd)

LINE CONSTRUCTION (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All Pipe type Cable Installations, Maintenance Jobs or Projects					
Journeyman Lineman	13.95	1.40	3%+1.00	a	
Certified Lineman Welder	14.65	1.40	3%+1.00	a	
Cable Splicer	15.345	1.40	3%+1.00	a	
Groundman Equipment Operator	13.95	1.40	3%+1.00	a	
Groundman Truck Driver (Tractor Trailer Unit)	11.86	1.40	3%+1.00	a	
Groundman Truck Drivers	11.16	1.40	3%+1.00	a	
Groundman	10.46	1.40	3%+1.00	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after a holiday

DECISION NO. NY80-3057 - Mod. #3
(45 FR 62672 - September 19, 1980)
Bronx, Kings, Queens, New York,
& Richmond Counties, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
Carpenters, Soft Floor Layers & Drywall Installers	13.35	1.85	1.78	.95	.05
Millwrights	13.35	1.85	1.78	1.11	.04
Dockbuilders & Piledrivermen	13.25	1.85	1.78	1.01	.05
Diver	15.69	1.875	1.78	1.03	.05
Diver Tender	12.30	1.875	1.78	1.03	.05
Timbermen	12.31	1.85	1.28	.95	.05
IRONWORKERS					
Ornamental Finisher	12.62	1.21	3.55	1.00	.14
Stone Derrickmen & Riggers	14.62	2.23	1.51	1.50	.01
LABORERS (Demolition)					
Barmen	11.90	8%	10%		
Barmen Helpers	11.60	8%	10%		
MARBLE SETTERS					
Setters & Cutters	12.55	1.21	1.71	j	
Carvers	12.70	1.21	1.71	j	
Polishers	12.23	1.21	1.71	j	
Crane Operator	10.55	1.21	1.71	j	
PLASTERERS					
Kings	12.45	1.45		1.45	
PLUMBERS					
Kings, Queens	13.40	2.10	2.14	1.19	.22
SHEET METAL WORKERS	15.24	1.928	1.69		.16
SPRINKLER FITTERS & STEAMFITTERS	14.43	2.75	1.12	1.00	.07
TILE SETTERS	12.325	1.15	1.10		
TILE SETTERS HELPERS	10.71	1.055	.77		
IRONWORKERS					
Structural	12.95	1.86	4.45	1.85+g	.11

DECISION NO. PA80-3010 - MOD. #5
(45 FR 23270 - April 4, 1980)
Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford, Venango Counties, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
Zone 1	14.95	1.55	3%+.50		.10
Zone 4	14.70	3%	3%+1.00		4%
LINE CONSTRUCTION:					
Zone 1					
Class I	15.65	.60	3%		3/8%
Class II	9.33	.60	3%		3/8%
Class III	10.91	.60	3%		3/8%
Sheet metal workers (Zone 1)	13.75	1.12	1.66		.23

DECISION NO. PA80-3012 - MOD. #6
(45 FR 10595 - February 15, 1980)
Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington, Westmoreland Counties, Pennsylvania

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
Zone 1	14.95	1.55	3%+.50		.10
Zone 3	14.70	3%	3%+1.00		4%
LINE CONSTRUCTION					
Zone 1					
Lineman	15.65	.60	3%		3/8%
Winch truck op.	10.91	.60	3%		3/8%
Groundman	9.33	.60	3%		3/8%

DECISION NO. PA80-3011
MOD. NO. 6
(45 FR 12118 - February 22, 1980)
Greene, Somerset & Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians					
Zone 1	$14.95	1.55	3%+.50		.10
Line Construction					
Zone II					
Linemen	15.65	.60	3%		3/8%
Groundman	9.33	.60	3%		3/8%
Winch truck operator	10.91	.60	3%		3/8%

DECISION NO. PA78-3037
MOD. NO. 9
(43 FR 17239 - April 21, 1978)
Blair County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians	$14.95	1.55	3%+.50		.10
Painters	11.24	1.10	1.00		.02

DECISION NO. PA80-3055 - MOD. #3
(45 FR 65902 - October 3, 1980)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	13.51	1.00	1.30		.08
LINE CONSTRUCTION:					
Zone 1					
Linemen	15.34	.60	3%		1%
Groundmen	9.20	.60	3%		1%
Winch Truck Op.	10.74	.60	3%		1%

DECISION NO. PA80-3062 - MOD. #2
(45 FR 72452 - October 31, 1980)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Journeyman Lineman	15.34	.60	3%		1%
Winch Truck Operators	10.74	.60	3%		1%
Groundmen	9.20	.60	3%		1%

DECISION NO. PA80-3071 - MOD. #2
(45 FR 70699 - October 24, 1980)
Allegheny County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
TILE SETTERS	12.37	.90	2.30		
ELECTRICIANS:					
Residential 4 stories walkup or with elevator	14.95	1.55	3%+.50		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA80-3074					
MOD. NO. 1					
(45 FR - 81981 December 12, 1980)					
Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania					
CHANGE:					
Electricians					
Zone 1	$14.95	1.55	3%+.50		.10
Line Construction					
Zone 1					
Lineman	15.65	.60	3%		3/8%
Groundman	9.33	.60	3%		3/8%
Winch truck operator	10.91	.60	3%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX80-4018 -					
MOD. #6					
(45 FR 16828 - March 14, 1980)					
Cameron, Hidalgo, Starr & Willacy Cos., Texas					
CHANGE:					
Asbestos workers	$13.24	.70	1.00		
DECISION NO. TX80-4076 -					
MOD. #5					
(45 FR 67535 - October 10, 1980)					
Wichita County, Texas					
CHANGE:					
Laborers: Group 1	7.05	.30	.27		
Group 2	7.18	.30	.27		
Group 3	7.30	.30	.27		
Group 4	7.55	.30	.27		
Plasterers	12.25				.01
DECISION NO. TX80-4077 -					
MOD. #4					
(45 FR 67538 - October 10, 1980)					
Galveston & Harris Cos., Texas					
CHANGE:					
Lathers (Harris Co. only)	13.82	.70	.35		.03
DECISION NO. TX80-4085 -					
MOD. #5					
(45 FR 74365 - November 7, 1980)					
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE:					
Cement masons	12.05				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VT81-3007 - MOD. #1 (46 FR 4265 - January 16, 1981)					
STATEWIDE, VERMONT					
CHANGE:					
Footnote b:					

b. Nine (9) paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day and Veteran's Day, provided the employee has been employed at least 7 days or more prior to the holiday and has worked the scheduled day before and the day after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. ME81-3008 - MOD. #1 (46 FR 4261 - January 16, 1981)					
STATEWIDE, MAINE					
CHANGE:					
LABORERS:					
Hancock Co.	3.35				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. WV80-3016-Mod. #3 (45 FR 36771-May 30,1980)					
Statewide, West Virginia					
CHANGE:					
CARPENTERS					
Heavy Construction	11.04	.80	.75		.05
Highway Construction	10.83	.80	.75		.05
CEMENT MASONS					
Heavy Construction	12.20	.50			
Highway Construction	11.98	.50			
PILEDRIVERMEN-HEAVY CONSTRUCTION:					
Area 2	11.37	.80	.75		.05
PILEDRIVERMEN-HIGHWAY CONSTRUCTION:					
Area 2	11.15	.80	.75		.05
POWER EQUIPMENT OPERATORS:					
Heavy Construction:					
Group 1	12.01	1.10	.60		.12
Group 2	11.21	1.10	.60		.12
Group 3	10.47	1.10	.60		.12
Group 4	10.23	1.10	.60		.12
Group 5	9.90	1.10	.60		.12
Group 6	9.58	1.10	.60		.12
Group 7	10.79	1.10	.60		.12
Highway Construction:					
Group 1	11.84	1.10	.60		.12
Group 2	11.01	1.10	.60		.12
Group 3	10.27	1.10	.60		.12
Group 4	10.03	1.10	.60		.12
Group 5	9.70	1.10	.60		.12
Group 6	9.38	1.10	.60		.12
Group 7	10.60	1.10	.60		.12

DECISION NO. WV80-3016-Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Heavy Construction:					
Area I: All Counties except Grant, Hampshire, Hardy, Mineral, Morgan and Pendleton					
Group 1	9.72	b	c		
Group 2	9.89	b	c		
Group 3	10.13	b	c		
Group 4	10.47	b	c		
Group 5	10.55	b	c		
Group 6	10.73	b	c		
Group 7	10.93	b	c		
Group 8	10.97	b	c		
Area II: Grant, Hardy, Hampshire, Mineral, Morgan and Pendleton Counties					
Group 1	9.72	1.00	.87		
Group 2	9.89	1.00	.87		
Group 3	10.13	1.00	.87		
Group 4	10.47	1.00	.87		
Group 5	10.55	1.00	.87		
Group 6	10.73	1.00	.87		
Group 7	10.93	1.00	.87		
Group 8	10.97	1.00	.87		
TRUCK DRIVERS:					
Highway Construction:					
Area I: All Counties except Grant, Hampshire, Hardy, Mineral, Morgan, and Pendleton					
Group 1	9.52	b	c		
Group 2	9.68	b	c		
Group 3	9.92	b	c		
Group 4	10.28	b	c		
Group 5	10.34	b	c		
Group 6	10.52	b	c		
Group 7	10.67	b	c		
Group 8	10.76	b	c		

DECISION NO. WV80-3016-Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Area 2: Grant, Hampshire, Hardy, Mineral, Morgan and Pendleton Counties:					
Group 1	9.52	1.00	.87		
Group 2	9.68	1.00	.87		
Group 3	9.92	1.00	.87		
Group 4	10.28	1.00	.87		
Group 5	10.34	1.00	.87		
Group 6	10.52	1.00	.87		
Group 7	10.67	1.00	.87		
Group 8	10.76	1.00	.87		

FOOTNOTES:
b. employer contributes $110.00 per month per employee.
c. employer contributes $95.33 per month per employee

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: *SEE BELOW
DECISION NO. AL81-1183 DATE: Date of Publication
Supersedes Decision No. AL80-1074 dated July 18, 1980 in 45FR 48407
DESCRIPTION OF WORK: Building construction projects (does not include single family homes and apartments up to and including 4 stories)

*Counties: Lawrence, Limestone and Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.85	.66	.85		.10
BRICKLAYERS:					
Bricklayers, Marble Masons, Stonemasons, Pointers, Cleaners & Caulkers	12.25				
CARPENTERS:					
Carpenters & Soft Floor Layers	9.85	.60	.55		.07
Millwrights	10.50	.60	.55		.07
Piledrivermen	10.25	.60	.55		.07
CEMENT MASONS	11.50				
ELECTRICIANS:					
Electricians & Linemen	12.70	.55	3%+.70		
Cable Splicers	12.95	.55	3%+.70		
Groundmen	11.15	.55	3%+.70		
ELEVATOR CONSTRUCTORS	11.68	1.195	.95	a+b	.035
IRONWORKERS	11.57	.75	.75		.08
LABORERS (Lawrence County)					
Laborers, Mason Tenders, Plasterers' Tenders, Air Tool Operators, Mortar Mixers, & Pipelayers	7.44	.40	.50		
	7.64	.40	.50		
LABORERS (Limestone & Morgan Counties)					
Laborers & Mason Tenders	6.57	.40	.50		
Air Tool Operators & Mortar Mixers	6.82	.40	.50		
PLASTERERS	11.75				
PLUMBERS & PIPEFITTERS & STEAMFITTERS					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 20 to Wheeler Lake including Moulton & Wren excluding Bankhead National Park), Limestone & Morgan Co.	11.85	.60	.65		.15
PLUMBERS & STEAMFITTERS					
Lawrence County - Remainder of County	13.85	.85	1.00		.13
ROOFERS	10.25		.40		.10
SHEET METAL WORKERS	12.28	.79	1.07		.09
TERRAZZO WORKERS & TILE SETTERS	12.00				

PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. 6 paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business less than 5 years.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	12.13	.60	.65		.05
GROUP B	10.59	.60	.65		.05
GROUP C	9.67	.60	.65		.05

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, ¾ cu. yd. & under, locomotive brakeman, locamotive 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 Tanden 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)).

STATE: ALABAMA COUNTY: MADISON
DECISION NUMBER: AL81-1184 DATE: DATE OF PUBLICATION
Supersedeses Decision Number AL80-1117, dated December 12, 1980, in 45 FR 81959.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.85	.66	.85		.10
BRICKLAYERS	12.25				
CARPENTERS	9.85	.60	.55		.07
CEMENT MASONS	10.25				
ELECTRICIANS	12.70	.55	3%+.70		
IRONWORKERS	11.57	.75	.75		.08
LABORERS - UNSKILLED	5.55	.35	.50		
MILLWRIGHTS	10.50	.60	.55		.07
PAINTERS	8.25	.40	.25		.05
PLUMBERS & PIPEFITTERS	9.88				
ROOFERS	7.50				
SHEET METAL WORKERS	12.28	.79	1.07		.09
TRUCK DRIVERS	5.00				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
CRANE	12.13	.60	.65		.05
FRONT END LOADER	12.13	.60	.65		.05
OILER(35 tone crane & over)	10.59	.60	.65		.05

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: Iowa COUNTY: Pottawattamie
DECISION No.: IA81-4010 DATE: Date of Publication
Supersedes Decision No. IA80-4049, dated September 19, 1980 in 45 FR 62665
DESCRIPTION OF WORK: Building Construction in entire County (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	$15.52	.70	.71		.03
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	13.35	.85	.70		.05
CARPENTERS:					
Carpenters	13.07	.85	.70		.05
Piledrivermen	13.205	.85	.70		.05
Millwrights	13.35	.85	.70		.05
CEMENT MASONS	11.81	.82	.90		
DRYWALL TAPERS & FINISHERS	12.19	.61		.60	
ELECTRICIANS	14.71	.98	3%+.95		½%
ELEVATOR CONSTRUCTORS	12.76	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPER	70%JR	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' PROBATIONARY HELPER	50%JR				
GLAZIERS	13.64	.90	.50		.01
IRONWORKERS	12.13	.85	1.00	1.00	.05
LABORERS:					
Common Laborers	9.11	.65	.65		.05
Mason Tenders; mortar mixers	9.285	.65	.65		.05
Pipelayers	9.45	.65	.65		.05
Plasterers' tenders	9.495	.65	.65		.05
Line Construction					
Group I - lineman; all rigs setting assembled "H" fixtures and steel transmission structures	13.26	.45	7%	b	½%
Group II - blaster; special equipment operations (hole digging machines, all tractors, transmission line pole hauling and setting equipment other than assembled "H" fixtures)	10.61	.45	7%	b	½%
Group III - groundman	8.62	.45	7%	b	½%
Group IV - groundman-truck driver	8.75	.45	7%	b	½%
Group V - pole treating truck driver	8.49	.45	7%	b	½%
Group VI - pole treaing specialist	10.21	.45	7%	b	½%

DECISION No. IA81-4010

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Paperhangers	$10.10		.25		
Highwork; spray; stage; structural steel	10.65		.25		
PLASTERERS	12.30	.82	.58		
PLUMBERS	13.79	1.10	1.15		.10
ROOFERS:					
Slate; Tile	11.20	.70	.20		.01
Composition	10.90	.70	.20		.01
SHEET METAL WORKERS	14.29	.75			.08
SPRINKLER FITTERS	14.10	.85	1.20		.08
TERRAZZO WORKERS; TILE SETTERS; MARBLE SETTERS	12.22	.30	.40		

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Seven paid holidays A thru G.

b - Seven paid holidays A thru G

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Christmas Day; G-Friday after Thanksgiving

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.32	.90	.90		.10
Group 2	12.085	.90	.90		.10
Group 3	10.78	.90	.90		.10
Group 4	10.015	.90	.90		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting and grating); econohobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

SUPERSEDEAS DECISION

STATE: MARYLAND LOCATION: BALTIMORE CITY
DECISION NO.: MD81-3004 DATE: DATE OF PUBLICATION
Supersedes Decision No. MD78-3046 dated May 19, 1978 in 42 FR 21813
DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters, tunnels, rest areas which include building structures, and railroad construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$12.58	.90	.75		.07
CARPENTERS	11.70	.75	.69		.07
CEMENT MASONS	10.00	.60	.55		.04
ELECTRICIANS	12.70	.90	3%+1.30		.5%
IRONWORKERS:					
Structural and Reinforcing	12.21	.90	1.95		.06
Fence Erectors	11.86	.90	1.95		.06
LABORERS:					
Laborers	7.40	.35	.60		.075
Power Tool Operators	7.50	.35	.60		.075
Pipelayers, Wagon Drill Operators, Air Track drillers, Burners (demolition	7.90	.35	.60		.075
Mason Tenders & Mortar Mixers (brick & stone work only)	9.10	.30	.50		.075
Jackhammer Operators-80# and over	7.65	.35	.60		.075
LINE CONSTRUCTION:					
Linemen, Cable Splicers, Digging and Equipment Operators	14.20	.70	3%		
Truck with winch, truck with poles or steel handling	9.51	.70	3%		
Truck without winch	8.88	.70	3%		
Groundman	8.95	.70	3%		
PAINTERS:					
Brush and Roller	9.90	1.10	.65		.09
Spray Painting (except steel)	10.15	1.10	.65		.09
Steel painting, any painting using swinging stages and boatswain chairs, sand and water blasting, steam cleaning and all epoxy	10.40	1.10	.65		.09

DECISION NO. MD81-3004

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Pickups	7.66	1.05	.80		a+b
Dumps	7.88	1.05	.80		a+b
Drop-frame, gooseneck, trailer driver	8.07	1.05	.80		a+b
Euclids & dumpsters	8.19	1.05	.80		a+b

FOOTNOTES:

a. 9-paid holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day and employee's Birthday, providing employee has worked one day and was available for work during the holiday week.

b. Employees who have worked 125 days in the previous contract year and have 1 year of service, 1 week's paid vacation; 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

POWER EQUIPMENT OPERATORS:					
Group I	11.01	1.00	1.15		.15
Group II	10.46	1.00	1.15		.15
Group III	9.83	1.00	1.15		.15
Group IV	8.65	1.00	1.15		.15

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Backfiller, backhoe, batching plants, cableway, Case type hoe (with a front end bucket over 1-1/4 yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1 - 3/4 yds. and over), grader, gradall, hoist (2 active drums or more), pile driving machine, power crane, power shovel, repair mechanic, standard guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whirley rig and bulldozers (D-9 or equivalent and above).

DECISION NO. MD81-3004

POWER EQUIPMENT OPERATOR CLASSIFICATIONS CONT'D

Group II - Asphalt spreader, bull float, Case type hoe (with a front end bucket 1 - 1/4 yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds.), finishing machine, front end loader (under 1 - 3/4 yds.), grout pump, hi-lift, longitudinal float, narrow guage locomotive, one drum hoist, power roller on hot mix asphalt, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), subgrader, well-drill and all bulldozers except D-9 or equivalent and above.

Group III - Compressors, conveyors, firemen, fueltruck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines, wellpoint system and all power rollers except on hot mix asphalt.

Group IV - Oilers (all types)

SUPERSEDEAS DECISION

STATE: MARYLAND COUNTIES: ALLEGANY AND GARRETT

DECISION NO.: MD81-3005 DATE: DATE OF PUBLICATION

Supersedes Decision No. MD79-3010 dated May 11, 1979 in 43 FR 27873

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.47	.85	1.25		
BOILERMAKERS	14.275	1.275	1.00		.04
BRICKLAYERS	11.79	.80	1.00		
CARPENTERS	11.68	.80	1.00		.03
CEMENT MASONS	13.26	.75			
ELECTRICIANS:					
Allegany County	12.70	.90	3%+.70		.75%
Garrett County	13.10	.90	3%+.70		.75%
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	13.095	.69	a+b		.03
Elevator Constructors' Helpers	9.17	.69	a+b		.03
Elevator Constructors' Helpers (Probationary)	6.55				
GLAZIERS	11.44	.92	1.15	1.15	.02
IRONWORKERS:					
Structural, Ornamental, & Reinforcing	12.75	.75	1.40		
LATHERS	9.25		.35		.01
LINEMEN-Allegany and Garrett (east of Rte. 219) Counties					
Linemen	12.70	.90	3%+.70		.75%
Equipment Operator	12.07	.90	3%+.70		.75%
Truck Driver	8.26	.90	3%+.70		.75%
Groundmen	8.26	.90	3%+.70		.75%
LINEMEN-Garrett County (west of Rte. 219)					
Linemen	13.10	.90	3%+.70		.75%
Equipment Operator	12.47	.90	3%+.70		.75%
Truck Driver	8.66	.90	3%+.70		.75%
Groundmen	8.66	.90	3%+.70		.75%
MARBLE MASONS	11.79	.80	1.00		
MILLWRIGHTS	12.08	.80	1.00		.03

DECISION NO. MD81-3005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, rollers, wall covering hangers, & installation of seamless type floors	8.95		.50		
Spray, sandblasting & use of flame burning & power tools	9.95		.50		
Toxic materials-bush & roller	9.45		.50		
Toxic materials-spray	10.45		.50		
PILEDRIVERMEN	12.02	.80	1.00		.03
PLASTERERS	13.26	.75			
PLUMBERS & STEAMFITTERS	12.00	.50	.85	1.00	.05
ROOFERS:					
Composition	11.10	.75	.40		
Mopmen-composition	11.35	.75	.40		
Slaters	11.25	.75	.40		
SHEET METAL WORKERS	11.12		.28		.02
SPRINKLERFITTERS	13.90	.85	1.20		.08
STONE MASONS	11.79	.80	1.00		
TERRAZZO WORKERS	11.79	.80	1.00		
TILE SETTERS	11.79	.80	1.00		

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Indpendence Day, Labor Day, Thanksgiving Day, and Christmas Day.

b-Employer contributes 4% of basic hourly rate for 5 years of service or more and 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

DECISION NO. MD81-3005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group I	10.40	.90	1.40		
Group II	9.72	.90	1.40		
Group III	9.84	.90	1.40		
Group IV	9.91	.90	1.40		
Group V	9.47	.90	1.40		
Group VI	10.07	.90	1.40		
Group VII	10.61	.90	1.40		
Group VIII	10.19	.90	1.40		
Group IX	10.19	.90	1.40		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Unskilled & landscape workers
Group II - Handy man, tool checker, dump men & spotter
Group III - Power tool operators, mortar mixer by hand, scaffold builder, hod car rier, concrete puddler, rammer, pipelayer, chainman - rodman, grade checker, masons' & plasterers' tenders, tampers, & gunnite laborers on scaffolds
Group IV - Mortar mixer by machine
Group V - Large wacker
Group VI - Blaster/dynamite, & wagon drill operators (air track)
Group VII - Tunnel workers: Caisson, driller, & mucker
Group VIII - Tunnel workers: Unskilled laborers
Group IX - Gunnite workers: Nozzlemen & gun operators

POWER EQUIPMENT OPERATORS:					
Group I	11.14	.95	1.00		.13
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:					
130' to 169' plus $ .40					
170' to 209' plus .60					
210' to 249' plus .80					
250' to 299' plus 1.00					
300' and over plus 1.25					
Group II	10.71	.95	1.00		.13
Group III	10.37	.95	1.00		.13
Group IV	10.37	.95	1.00		.13
Group V	10.01	.95	1.00		.13
Group VI	9.66	.95	1.00		.13
Group VII	11.54	.95	1.00		.13

DECISION NO. MD81-3005

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard guage locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (1 3/4 yds. and over), over 4 welders top scale (more than 6, another man), Eimco type overhead loader, wellpoint system, mighty with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
Group II - Tractor with attachments (2 or more), bulldozer
Group III - Concrete mixer, concrete pump, one drum hoist, narrow guage locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4) single compressors (over 210 C.F.M.), steam hammer, pile extractor, conveyor, stone crushed, hi-lift, front end loader (under 1 3/4 yards), excavating scoop
Group IV - Finishing machine, bull float, longitudinal float, screeding machine concrete spreader, sub grader
Group V - Fireman, truck crane oiler, wheel tractor, grease truck operator
Group VI - Oiler, greaser, mechanic's helper, single compressor (up to 210 C.F.M.)
Group VII - Operators handling or setting steel, stone, prestressed concrete or machinery, tower cranes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Group I	9.83	1.00	1.25		
GRoup II	9.99	1.00	1.25		
Group III	10.22	1.00	1.25		
Group IV	10.43	1.00	1.25		
Group V	10.69	1.00	1.25		

DECISION NO. MD81-3005

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group I - Dumpmen and flagmen
Group II - Pick-ups, dump (under 5 yds., capacity), straight trucks
Group III - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds., capacity, transit mix, dumps (5 to 9 yds., capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks
Group IV - Dump trucks (10 to 15 yds., capacity)
Group V - Dump trucks (over 15 yds., capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frame, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes, or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

SUPERSEDEAS DECISION

STATE: MARYLAND

COUNTIES: CALVERT, CARROLL, CHARLES, FREDERICK, HOWARD, MONTGOMERY, PRINCE GEORGES, ST. MARY'S AND WASHINGTON

DECISION NO.: MD81-3012 DATE: DATE OF PUBLICATION
Supersedes Decision No. MD77-3119 dated September 9, 1977 in FR 45588
DESCRIPTION OF WORK: Highway Construction Project (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1: Calvert, Charles, Prince George's & St. Mary's Cos. ZONE 2: Carroll, Howard, Frederick, Montgomery and Washington Cos.						
BRICKLAYERS	8.20	8.20				
CARPENTERS	7.35	8.02				
CEMENT MASONS	6.92	6.50				
ELECTRICIANS	7.05	7.46				
IRONWORKERS, STRUCTURAL	7.15	7.50				
IRONWORKERS, REINFORCING	10.22	7.57				
PAINTERS	-	8.61				
PAINTERS, STRUCTURAL STEEL	7.65	5.65				
LABORERS, UNSKILLED	4.84	5.32				
AIR TOOL OPERATOR (JACKHAMMER)	6.13	5.98				
ASPHALT RAKER	5.56	5.64				
FORMSETTERS	6.25	5.97				
GROUNDMEN	-	5.50				
LANDSCAPE WORKERS	5.00	-				
LINEMEN	-	11.35				
PIPELAYERS	6.47	6.47				
TRUCK DRIVERS	6.08	-				

SUPERSEDEAS DECISION

	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:						
Asphalt Distributor - liquid	5.50	5.75				
Asphalt Screed	5.30	-				
Backhoe	7.19	7.95				
Backend Paver	5.66	6.65				
Bituminous Concrete Paver	5.80	6.34				
Bulldozer	7.76	7.36				
Cranes, Derricks, Draglines	8.95	8.71				
Gradall	7.67	7.94				
Guard Rail Hammer	6.00	-				
Loaders (all types)	7.71	7.24				
Motor Patrol-Grader	7.69	7.72				
Rollers-Base	5.26	6.22				
Rollers-Finish	5.94	6.28				
Scrapers-Pans-Scoops	8.34	6.50				
Aggregate Spreader	5.96	5.80				
Concrete Finishing Machine	-	7.49				
Oilers-Greasers	-	6.44				
Tractor (attachments)	-	6.57				

STATE: Nevada COUNTY: Clark County (does not include the Nevada Test Site)

DECISION NUMBER: NV81-5102 DATE: Date of Publication

Supersedes Decision No. NV79-5102 dated March 9, 1979, in 44 FR 13221

DESCRIPTION OF WORK: Residential Projects consisting of 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	$16.21	$1.35	$1.30		
BOILERMAKERS	15.11	1.275	1.25	1.00	.04
BRICKLAYERS; Stonemasons	15.57	.90	.60		.06
CARPENTERS:					
Carpenters	15.31	.85	1.35		.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	15.46	.85	1.35		.10
Piledrivermen	15.51	.85	1.35		.10
Millwrights	16.31	.85	1.35		.10
CEMENT MASONS:					
Cement Masons	13.00	1.10	1.00		.13
Cement Floor Finishing Machine; Color Work	13.35	1.10	1.00		.13
DRYWALL INSTALLER	15.48	.85	1.35		.10
ELECTRICIANS:					
Electricians; Technicians	17.06	.98	3%+2.55		.08
Cable Splicers	17.39	.98	3%+2.55		.08
ELEVATOR CONSTRUCTORS	15.41	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS	10.79	1.045	.82	a	.035
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	7.70%				
GLAZIERS	11.76	.75	.40		.08
IRONWORKERS:					
Fence Erectors	13.46	1.39	3.22	2.15	.07
Ornamental; Reinforcing; Structural	14.35	1.39	3.22	2.15	.07
MARBLE MASONS	15.57	.90	.60		.06
MARBLE, TERRAZZO, TILE FINISHERS	12.14	.90	.60		
MASON TENDERS	11.62	.66	1.35		
PAINTERS:					
Brush; Roller Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Tapers	15.74	.80	.70		.06
	16.09	.80	.70		.06
PLASTER TENDERS	13.12	.81	1.35		.11

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$13.49	$1.10	$1.00		.13
PLUMBERS; Steamfitters	13.75	1.25	2.50	2.00	.08
ROOFERS	18.15	1.00			
SHEET METAL WORKERS	18.02	1.20	1.92		.19
SOFT FLOOR LAYERS	15.41	1.11			.25
SPRINKLER FITTERS	18.23	.85	1.20		.08
TERRAZZO WORKERS, TILE SETTERS	15.57	.90	.60		.06
WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through G.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

LABORERS:			
Group 1	$11.75	.81	$1.58
Group 2	11.96	.81	1.58
Group 3	12.06	.81	1.58
Group 4	12.15	.81	1.58
Group 5	12.25	.81	1.58

LABORERS

Group 1: Cutting Torch Operator (demolition); Dry Packing of concrete and filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Spotter, Debris Handler, and Dumpman; Gas and oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborer, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and Man applying asphalt, Lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman; Buggymobile Man; Cement Dumper (on one yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnels); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and oil Pipeline Wrapper, Pot Tender and Form Man; Making and Caulking of all non-metallic Pipe Joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand propelled Trenching Machines, Impact Wrench multiplate and similar mechanical tools not separately classified herein; Operator of cement grinding machine; Riprap Stonepaver; Roto-scraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Lead Man); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and oil Pipeline Wrapper, 6 in. pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe and underground tile; Oversize Concrete Vibrator Operator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - Blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon), Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type Drills

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection)					
Group 1	$13.60	$1.10	$2.80	.80	.14
Group 2	13.88	1.10	2.80	.80	.14
Group 3	14.17	1.10	2.80	.80	.14
Group 4	14.31	1.10	2.80	.80	.14
Group 5	14.53	1.10	2.80	.80	.14
Group 6	14.64	1.10	2.80	.80	.14
Group 7	14.76	1.10	2.80	.80	.14
Group 8	14.93	1.10	2.80	.80	.14
Group 9	15.06	1.10	2.80	.80	.14

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator Operator; Heavy Duty Repairman Tender; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler, Crusher (asphalt or concrete plant); Plant Operator, generator, pump or compressor; Rotary Drill Tender (oilfield); Skiploader - wheel type up to 3/4 yd. with attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Perguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Bridge type Unloader and Turntable Operator; Chip Spreading Machine; Concrete Pump (small portable); Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-Aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and wheel type (over 3/4 yds. and up to and including 1½ yds.); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired Scraper (self-loading - paddle wheel type-John Deere, 1040 and similar single unit); Skiploader (Crawler and wheel type, over 1½ yds. up to and including 6½ yds.); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturer's rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5 100 flywheel HP and over or similar)(Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. M.R.C.)

POWER EQUIPMENT OEPRATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick or similar type, up to and including 100 tons; Monorail Locomotive (diesel, gas or electric); Motor Patrol-blade Operator (single engine); Multiple engine tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar)(over 25 yds. and up to 50 cu. yds. struck); Tractor Loader Operator (Crawler and wheel type over 6½ yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yds. M.R.C.); Woods Mixer and similar Pugmill Equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cu. yds.); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-tired self-loading Scraper (Paddle Wheel-Auger type self-loading) (2 or more units); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-pull) (50¢ per hour additonal)

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cu. yds.); Remote controlled Earth Moving Equipment ($1.00 per hour additonal to base rate)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.07	.71	$1.19		
Group 2	12.18	.71	1.19		
Group 3	12.23	.71	1.19		
Group 4	12.39	.71	1.19		
Group 5	12.57	.71	1.19		
Group 6	13.07	.71	1.19		

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 gallons to 4000 gallons); Truck Driver working on gas and oil Pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse Clerk

Group 4: Dump Trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and Fuel Trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gallons and over); Transit-mix (6 yds. and over); Truck Repairman

Group 6: D.W. and similar-type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type trucks when performing work within teamster jurisdiction, regardless of types of attachment including power units pulling off highway Belly Dumps in Tandem

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. NV81-5103 Page 2

STATE: Nevada

COUNTIES: Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada

DECISION NUMBER: NV81-5103

DATE: Date of Publication

Supersedes Decision No. NV79-5107 dated March 9, 1979, in 44 FR 13225

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.27	$1.35	$1.30		
BOILERMAKERS	15.11	1.275	1.25	1.00	.04
BRICKLAYERS	15.57	.90	.60		.06
CARPENTERS:					
Carpenters	15.31	.85	1.35		.10
Floor Layers	15.335	.85	1.35		.10
Millwrights	16.31	.85	1.35		.10
Power Saw Operator	15.46	.85	1.35		.10
CEMENT MASONS:					
Cement Masons	10.75	1.40	1.50	2.50	.13
Floor Finishing Machine	11.10	1.40	1.50	2.50	.13
ELECTRICIANS:					
Electricians; Equipment Operators; Linemen	16.32	.98	3%+2.55		.08
Cable Splicers	16.65	.98	3%+2.55		.08
Groundman	13.06	.98	3%+2.55		.08
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	15.41	1.045	.82	a	.035
Elevator Constructors' Helpers	10.79	1.045	.82	a	.035
Elevator Constructors' Helpers (Prob.)	7.705				
IRONWORKERS:					
Ornamental; Reinforcing; Structural	14.35	1.39	3.22	2.15	.07
MASON TENDERS	11.62	.66	1.35		
PAINTERS:					
Brush; roller	14.56	.80	.70		.06
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers	14.91	.80	.70		.06
Buffing steel; Sandblasters, steel	15.17	.80	.70		.06
PLUMBERS; Steamfitters	17.50	1.25	2.50		.08
ROOFERS	18.15	1.00			
SHEET METAL WORKERS	16.65	1.20	1.92		.10
SPRINKLER FITTERS	18.23	.85	1.20		.08

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:

a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through G

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.80	.86	$1.58	$1.25	
Group 2	10.85	.86	1.58	1.25	
Group 3	10.88	.86	1.58	1.25	
Group 4	10.90	.86	1.58	1.25	
Group 5	10.92	.86	1.58	1.25	
Group 6	10.93	.86	1.58	1.25	
Group 7	10.95	.86	1.58	1.25	
Group 8	10.98	.86	1.58	1.25	
Group 9	10.99	.86	1.58	1.25	
Group 10	11.01	.86	1.58	1.25	
Group 11	11.06	.86	1.58	1.25	
Group 12	11.09	.86	1.58	1.25	
Group 13	11.11	.86	1.58	1.25	
Group 14	11.14	.86	1.58	1.25	
Group 15	11.16	.86	1.58	1.25	
Group 16	11.23	.86	1.58	1.25	
Group 17	11.25	.86	1.58	1.25	
Group 18	11.32	.86	1.58	1.25	

Group 1: Laborer - general; Laborer - demolition (cleaning of bricks, lumber, etc.); Dry Packing of concrete and filling of Form-bolt Holes; Spotter, Debris Handler and Dumpman; Fence Builder; Tool attendant (jobsite only); Gas and oil Pipeline Laborer

Group 2: Cutting Torch Operator (demolition); Tarman and Mortarman

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport runways and similar work; Landscape Gardener, Nurseryman and Grounds Keeper

LABORERS (Cont'd)

Group 5: Laborer - packing rod steel and pans

Group 6: Underground Laborer including Caisson Bellowers (except tunnels)

Group 7: Chucktender (except tunnels); Scaler; Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner

Group 8: Cesspool Digger and Installer

Group 9: Concrete Curer - Impervious Membrane and Oiler of all materials and Form Oiler; Riprap Stonepaver; Sandblaster (Pot Tender); Making and caulking of all non-metallic pipe joints

Group 10: Operators and Tenders of pneumatic and electric tools, Vibrating Machines and similar mechanical tools not separately classified herein, including hand Guided Ditch Witch and hand type Roller; Asphalt Raker, Ironer, Spreader; Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Concrete Saw Man excluding tractor type; Concrete Core Cutter; Gas and oil Pipeline Wrapper - Pot Tender and Form Man; Operator of Cement Grinding Machines; Roto-Scraper; Tree Climber, Faller, Chain Saw Operator; Pittsburgh Chipper and similar type Brush Shredders

Group 11: Rock Slinger; Scaler (using Bos'n's Chair or Safety belt or power tools)

Group 12: Driller and/or Pavement Breaker

Group 13: Laying of all nonmetallic pipe, including sewer pipe, drain pipe and underground tile

Group 14: Gas and oil Pipeline Wrappers - 6 inch pipe and over

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (Core, Diamond or Wagon), Joy Driller Model TW-M-2A, Gardener-Denver Model DH 143 and similar type drills; Sandblaster (Nozzleman)

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appt. Tr.
Group 1	$13.23	$1.10	$2.60	.37	.14
Group 2	13.47	1.10	2.60	.37	.14
Group 3	13.71	1.10	2.60	.37	.14
Group 4	13.82	1.10	2.60	.37	.14
Group 5	14.01	1.10	2.60	.37	.14
Group 6	14.11	1.10	2.60	.37	.14

Group 1: Air Compressor, pump or generator; Engineer Oiler and Signal Man; Heavy Duty Repairman's Tender; Rotary Drill Tender (Rotary and Core); Switchman or Brakeman

Group 2: Concrete Mixer, skip type; Conveyor and Beltman; Fireman; Generator, pump or compressor (2-5 units inclusive, over 5 units, $0.10 per hour for each additional unit up to 10 units, portable units); Generator, pump or compressor plant; Hydrostatic Pump; Motorman (Rotary and Core); Skiploader, wheeltype, Ford, Ferguson, Jeep or similar type, 3/4 yard or less (without drag-type attachments); Temporary Heating Plant; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Derrickman (Rotary and Core); Dinky Locomotive or Tunnel Motor; Elevator Hoist; Equipment Greaser; Ford, Ferguson or similar type (with drag-type attachments); Hydra-hammer or similar type equipment; Power Concrete Curing Machine; Power Concrete Saw; Power-driven Jumbo Form Setter; Ross Carrier; Self-propelled Tar Pipelining Machine; Stationary Pipe Wrapping and Cleaning Machine; Towblade Operator

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixer Box (concrete or asphalt plant); Fishing Tool Engineer; Highline Cableway Signalman; Locomotive Engineer; Mud Plant Operator; Power Sweeper; Roller, Compacting Screed; Trenching Machine (up to 6 ft. depth capacity, manufacturer's rating)

Group 5: Asphalt or Concrete Spreading, Mechanical Tamping or Finishing Machine - Roller (all types and sizes), soil, cement, asphalt - finish; Asphalt Plant Engineer; Deck Engine; Grade Checker; Pavement Breaker; Pneumatic Heading Shield - tunnel; Road Oil Mixing Machine; Forklift, under five tons; Rubber-tired, heavy duty equipment (Oshkosh, DW, Euclid, LeTourneau, LaPlant-Choate, or similar type equipment with any type attachments); Skiploader, wheeltype, over 3/4 yds., up to and including 1½ yds.; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tractor Operator - Drag-type Shovel, Bulldozer, Tamper, Scraper and Push Tractor

Group 6: Combination Heavy-duty Repairman and Welder (additional $0.10 per hour premium, $0.05 per hour tool allowance); Concrete Mixer, paving; Concrete Mobile Mixer; Concrete Pump or Pumpcrete Gun; Crushing Plant Engineer; Driller (Rotary and Core); Elevating Grader; Forklift, over 5 tons; Gradeall; Heavy-duty Repairman ($0.05 per hour tool allowance); Heavy-duty Welder; Highline Cableway; Hoist (Chicago Boom and Mine); Kolman Belt Loader and similar type; Lift Slab Machine; Loader Operator - Athey, Euclid, Hancock, Sierra or similar type; Motor Patrol (any type or size); Multiple-engine earthmoving machinery; Pneumatic Concrete Placing Machine - Hackley-Presswell or similar type; Shovel, Backhoe, Dragline, Clamshell, Derrick, Derrick Barge, Crane Piledriver and Mucking Machine; Skiploader, wheeltype, over 1½ yds.; Surface Heater and Planer; Tractor Loader - Crawler type - all types and sizes; Tractor, with boom attachments; Traveling Pipe Wrapping, Cleaning and Bending Machine; Trenching Machine (over 6 ft. depth capacity, manufacturer's rating)

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TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$13.04	.63	$1.33		
Group 2	13.15	.63	1.33		
Group 3	13.20	.63	1.33		
Group 4	13.36	.63	1.33		
Group 5	13.54	.63	1.33		

Group 1: Light Duty Driver

Group 2: Bootman; Truck Greaser

Group 3: Tireman

Group 4: Heavy Duty Driver; Forklift Driver

Group 5: Extra Heavy Duty Driver

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)).

federal register

Friday
February 6, 1981

Part III

Environmental Protection Agency

Proposed Waiver From New Source Performance Standard for Homer City Unit No. 3 Steam Electric Generating Station, Indiana County, Pennsylvania

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EN FRL 1707-1]

Proposed Waiver From New Source Performance Standard for Homer City Unit No. 3 Steam Electric Generating Station Indiana County, Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) proposes to grant, subject to the concurrence of the Governor of the Commonwealth of Pennsylvania, an innovative technology waiver, pursuant to Section 111(j) of the Clear Air Act, as amended (the Act), 42 U.S.C. 7411(j), to the Homer City Steam Electric Generating Station; Indiana County, Pennsylvania. The waiver, if granted, would allow emissions from Unit No. 3 at Homer City Steam Electric Generating Station to exceed the Federal New Source Performance Standard for control of sulfur dioxide (SO_2) for a limited period and under specific, enforceable terms and conditions. The statutory waiver would provide an opportunity to adequately demonstrate at generating Unit No. 3 a new technological system of achieving continuous reductions of SO_2 emissions generated from combustion of coal in electric utility boilers.

By virtue of Section 111(j)(1)(B) of the Act, 42 U.S.C. 7411(j)(1)(B), the terms and conditions of the Section 111(j) waiver would be federally promulgated standards of performance legally applicable during the waiver period. Violations of the terms and conditions of the Section 111(j) waiver will subject the owners and operators of Homer City Steam Electric Generating Station to Federal enforcement under Sections 113 (b) and (c), 42 U.S.C. 7413 (b) and (c), and 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604.

The purpose of this notice is to invite public comment and, pursuant to Section 111(j)(1)(A) of the Act, 42 U.S.C. 7411(j)(1)(A), to offer an opportunity to request a public hearing on the proposed innovative technology waiver.

DATES: Written comments and written requests for a public hearing must be received on or before March 9, 1981.

ADDRESSES: Under Section 307(d)(2), 42 U.S.C. 7607(d)(2), the Administrator is required to establish two separate rulemaking dockets. Therefore, all comments should be submitted to both dockets, addressed as follows:

Central Docket Section (A-130), Environmental Protection Agency, Attention: Docket No. EN-80-20, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Attention: Peter Schaul, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106

The dockets containing material relevant to this rulemaking are located at:

Environmental Protection Agency, Central Docket, West Tower Lobby; Gallery One, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106

The docket at either address may be inspected between 8 a.m. and 4 p.m. on weekdays and a reasonable fee may be charged for copying.

Requests for a public hearing should be submitted to Stuart I. Silverman, Esq., Division of Stationary Source Enforcement; U.S. Environmental Protection Agency, EN-341, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Stuart I. Silverman, Esq., Division of Stationary Source Enforcement, U.S. Environmental Protection Agency, EN-341, 401 M Street, SW., Washington, D.C. 20460, telephone number (202) 755-2570.

SUPPLEMENTARY INFORMATION:

I. Background

Homer City Steam Electric Generating Station (Homer City) is located in Center Township, Indiana County, Pennsylvania (Southwest Pennsylvania Air Quality Control Region) and is jointly owned by Pennsylvania Electric Company (a subsidiary of General Public Utilities Corporation) and by New York State Electric & Gas Corporation. Pennsylvania Electric Company and New York State Electric & Gas Corporation are corporations registered in accordance with the corporate laws of the Commonwealth of Pennsylvania and the State of New York, respectively.

Homer City is operated by Pennsylvania Electric Company and consists of two 600 megawatt coal-fired electric generating boilers (Units No. 1 and 2) each with an 809 foot (246.6 meters) stack and one 650 megawatt coal-fired electric generating boiler (Unit No. 3) with a 1,200 foot (365.8 meters) stack. Electrical power generated by Units Nos. 1, 2, and 3 is transmitted to the two joint owners on a shared basis. Fifty percent of the generated electrical power is distributed to the Pennsylvania Electric Company through the General Public Utilities Transmission System while the remaining fifty percent is distributed to New York State Electric & Gas Corporation. Pennsylvania Electric Company services approximately 506,000 customers (28% residential, 21% commercial and 44% industrial) while New York State Electric & Gas Corporation services approximately 654,000 end users (39% residential, 34% commercial, and 26% industrial).

Federal law requires Units Nos. 1, 2, and 3 to limit total emissions of certain air contaminants. Most pertinent for this proposed rulemaking are sulfur dioxide (SO_2) emissions from Units Nos. 1, 2, and 3 resulting from coal combustion during the generation of electrical power. All three generating units utilize bituminous coal as fuel.

Under the Pennsylvania State Implementation Plan, Units Nos. 1 and 2 may not emit more than 4.0 lbs of $SO_2/10^6$ Btu of heat input.[1] Unit No. 3 is subject to Federal New Source Performance Standards for SO_2 under Section 111 of the Act,[2] 42 U.S.C. 7411, and may not emit more than 1.2 lbs of $SO_2/10^6$ Btu of heat input.[3]

Pursuant to Section 111(j) of the Act, Pennsylvania Electric Company and New York State Electric & Gas Corporation have requested a waiver of the Federal New Source Performance Standard for SO_2 applicable to Unit No. 3 to allow the utility owners a limited time period to implement a certain precombustion coal cleaning technique, known as the Multi-Stream Coal Cleaning System (MCCS), designed to ensure continuous compliance by Unit No. 3 with the applicable Federal New Source Performance Standard for SO_2.[4]

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[1] Pennsylvania Department of Environmental Resources: Rules and Regulations; Section 123.22(c) (as adopted on January 27, 1972). Pursuant to Section 110 of the Act, 42 U.S.C. 7410, Section 123.22(c) was approved on May 31, 1972, as part of the Pennsylvania State Implementation Plan and thereby federally enforceable.

[2] Federal New Source Performance Standards under Section 111 of the Act are technology based emission limitations promulgated by the Administrator pursuant to Section 111(b)(1)(B), 42 U.S.C. 7211(b)(1)(B) for certain enumerated new source categories.

[3] 40 CFR 60.43(a)(2) (July 1, 1979); 39 FR 20792, June 14, 1974, as amended at 41 FR 51398, November 22, 1976.

[4] During the initial construction phase of Unit No. 3, the owners of Homer City were aware of Congressional consideration of a possible amendment to Section 111 of the Act which would provide for a waiver of Federal New Source Performance Standards to encourage innovative control technology. Further, the owners of Homer City approached EPA prior to enactment by the Congress of such a waiver provision and requested that the Agency consider a waiver from the SO_2 Federal New Source Performance Standard for Unit

Unlike other desulfurization technologies, MCCS is a precombustion coal cleaning technique designed to produce a deep cleaned (low sulfur) coal and a middling (medium sulfur) coal by physically removing pyritic sulfur from coal used as a boiler fuel for electrical power generation. There is substantial likelihood that the resultant deep cleaned coal will enable Unit No. 3 to comply with the Federal New Source Performance Standard of 1.2 lbs of SO_2/10^6 Btu. The middling coal will be sufficiently cleaned to enable Units Nos. 1 and 2 to comply with the Pennsylvania State Implementation Plan emission limitation of 4.0 lbs of SO_2/10^6 Btu.

In the 1977 Amendments to the Clean Air Act, the Ninety-fifth Congress added a new provision to Section 111 to encourage the use of innovative "technological systems of continuous emission reduction" [5] for the control of air pollutants. Absent a statutory provision encouraging improvements of control techniques, owners of new stationary sources could be reluctant to voluntarily experiment with promising new control techniques for fear of potential exposure to enforcement actions for violation of applicable environmental requirements. The Congress intended to provide a statutory incentive for the improvement of emission control technology and for reducing costs, environmental impacts and energy usage of such technology.[6]

Under Section 111(j) of the Act, upon request by the owner or operator of a new source, and with the consent of the Governor of the State in which the source is located, the Administrator of EPA is authorized to grant a waiver from the requirements of Section 111 for a limited time period and under specific terms and conditions provided certain statutory prerequisites are satisfied. The Administrator must determine that:

a. The proposed innovative system has not been adequately demonstrated,

b. The proposed innovative system will operate effectively and there is substantial likelihood that such system will achieve greater continuous emission reduction than otherwise required or achieve an equivalent emission reduction at lower cost in terms of energy, economic, or nonair quality environmental impact,

c. The owner or operator of the proposed system has demonstrated to the Administrator's satisfaction that the system will not cause or contribute to unreasonable risk to public health, welfare, or safety, and

d. The proposed waiver for the specific innovative technological system is not in excess of the number of waivers necessary to ascertain whether or not such system will achieve the conditions set forth in "b" and "c" immediately above.

Additionally, Section 111(j)(1)(B) of the Act requires an innovative technology waiver to be granted on such terms and conditions during the waiver period as the Administrator determines necessary:

a. to ensure emissions from the source will not prevent attainment and maintenance of any national ambient air quality standards, and

b. to ensure proper functioning of the innovative technological system.

The Administrator proposes to grant, subject to the concurrence of the Governor of the Commonwealth of Pennsylvania, an innovative technology waiver, as specified in this proposal, to Pennsylvania Electric Company and New York State Electric & Gas Corporation for Homer City Unit No. 3 based upon a finding that such waiver comports with the provisions of Section 111(j).

II. Waiver in Conformance With Statutory Requirements and National Environmental Policy

The proposed Section 111(j) waiver would allow Homer City Unit No. 3 to exceed the Federal New Source Performance Standard for SO_2 until December 1, 1981,[7] during which time Pennsylvania Electric Company and New York State Electric & Gas Corporation shall implement MCCS, a new innovative technological system for control of SO_2 emissions.

The Administrator finds that, upon full implementation, MCCS will operate effectively and that there is substantial likelihood that such technological control system will enable Unit No. 3 to comply with the Federal New Source Performance Standard of 1.2 lbs of SO_2/10^6 Btu at lower cost in terms of energy, economic and nonair quality environmental impact. Substantial economic savings derived from MCCS at Homer city are projected in contrast to SO_2 control by conventional flue gas desulfurization technology (FGD) and SO_2 control by utilization of compliance coal as fuel.

Capital investment requirements for FGD are estimated at $77 million versus $50 million for MCCS. Annual revenue requirements are projected at $24 million for FGD control while revenue requirements for MCCS are estimated at $13.8 million, a savings of over $10 million per year.[8] Moreover, estimates indicate that the cost of compliance using low sulfur coal with a specific sulfur content and heating value available on the market would be approximately 20% greater than the total cost incurred for requisite coal assuming precombustion coal cleaning by MCCS. Similar cost benefits will be derived from MCCS in terms of energy use efficiency. In contrast to conventional coal cleaning technologies,[9] MCCS is designed to maximize sulfur reduction and Btu or energy recovery from coal used as feed stock by producing two grades of compliance coals, each capable of meeting a different SO_2 emission limitation. Conventional coal cleaning techniques produce one grade of compliance coal with an equivalent sulfur content compared with MCCS but at a much lower Btu or energy recovery from raw feed stock.

The nature and amount of by-product wastes from MCCS will have less of an adverse environmental impact than by-product wastes from conventional physical coal cleaning techniques and conventional FGD technologies. The production of solid wastes presents the

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No. 3. Subsequent to the enactment of 111(j) as part of the 1977 Amendments to the Act, the owners of Homer City formally requested a 111(j) waiver of the SO_2 Federal New Source Performance Standard for Unit No. 3. Such request was made by letter dated November 10, 1977, approximately one month prior to startup of Unit No. 3. Upon receipt of the request, EPA evaluated whether or not the proposed emission control system which the owners of Homer City proposed to install for Unit No. 3 was innovative and whether a waiver under Section 111(j) of the Act was necessary to encourage such a technological system of emission control. Following an evaluation by the Agency of these issues, EPA indicated to the owners of Homer City that there was significant basis for proposing a Section 111(j) waiver assuming that all other statutory prerequisites were satisfied. During the ensuing time period, ambient air modeling studies were conducted to determine what, if any, effect a waiver under Section 111(j) would have on ambient air quality.

[5] Under Section 111(a)(7) of the Act, 42 U.S.C. 7411(a)(7), innovative "technological system of continuous emission reduction" is defined, in pertinent part, as "a technological system for continuous reduction of the pollution generated by a source before such pollution is emitted into the ambient air, including precombustion cleaning or treatment of fuels".

[6] U.S. Code Congressional and Administrative News: 1977, Vol. 2 at 1275.

[7] Under Section 111(j)(1)(E), 42 U.S.C. 7411(j)(1)(E), a waiver may not extend beyond the date (i) seven years after the date on which any waiver is granted to a qualifying source, or (ii) four years after the date on which a qualifying source commences operation, whichever is earlier. Homer City Unit No. 3 commenced operation on December 1, 1977. Therefore, a Section 111(j) waiver for Unit No. 3 may not extend beyond December 1, 1981.

[8] Estimated capital costs and annual revenue requirements are expressed in 1975 dollars. See McGraw, R. W. and O. G. Janik, MCCS Implementation at Homer City. In proceedings: Third Symposium on Coal Preparation, NCA/BCR Coal Conference and Expo IV, Louisville, Kentucky, October 1977.

[9] See "Physical Coal Cleaning for Utility Boiler SO_2 Emission Control," EPA-600/7-78-034, February 1978.

most significant environmental impact of coal cleaning. Given equivalent sulfur removal capabilities, solid wastes from MCCS will be in lower or equal quantities compared to other physical coal cleaning techniques because the MCCS is designed for 95 percent Btu or energy recovery from coal used as feed stock. The net amount of wastes generated by a boiler and an FGD system will likely be larger than the net wastes from the MCCS plant and boiler. The disposal costs for FGD waste sludges are higher and they present more of an environmental problem involving surface and ground water contamination. The disposal areas for coal-wastes are generally more easily and economically reclaimed than FGD sludge ponds. Moreover, the mining, transportation and processing of lime and limestone reagents used in FGD systems result in environmental and land use impacts. Such impacts are nonexistent with the use of coal cleaning technologies.

Based upon an analysis of the ambient air quality impact predicted by various air quality dispersion modeling studies, the Administrator finds that the terms and conditions of the Section 111(j) waiver, as proposed, will not prevent attainment and maintenance of national ambient air quality standards (NAAQS) for sulfur oxides.[10] Specifically, a study was conducted using four air quality dispersion models,[11] each utilizing different techniques for modeling rough terrain effects in the Southwest Pennsylvania Air Quality Control Region (AQCR). Highest and second highest ambient SO_2 levels were predicted during the waiver period using all four models for 120 receptor sites. Maximum SO_2 ambient levels in the AQCR were calculated by considering SO_2 contributions from all three combustion units at Homer City, from three other nearby electric generating plants, and from background levels caused by distant stationary sources in the Pittsburgh, Pennsylvania area.[12]

Model inputs assumed an increase during the waiver period in the SO_2 limit for Unit No. 3 from the allowable SO_2 emission limit under the Federal New Source Performance Standard during the compliance mode.[13] To adequately compensate for increases in SO_2 emissions attributable to Unit No. 3 during the waiver period, SO_2 emissions limits for Units Nos. 1 and 2 were reduced from the allowable emission limit under the SIP during the compliance mode.[14]

With the ratcheted decrease of SO_2 emissions from Units Nos. 1 and 2 during the waiver period, the Lappes model, the model with the best validation of the four dispersion models for the annual SO_2 concentrations, projected that the more restrictive SO_2 emission limits imposed for Units Nos. 1 and 2 compensated, in full, for the increase in SO_2 emissions from Unit No. 3 during the waiver period. More significantly, an improvement in ambient SO_2 levels during the waiver period as compared with ambient SO_2 levels during the compliance mode at Homer City was projected for the annual SO_2 concentrations. Similarly, the Lappes and Egan models, the two models with the best validations for the 24 hour and 3 hour SO_2 concentrations, projected that the more restrictive SO_2 emission limits imposed for Units Nos. 1 and 2 during the waiver period fully compensated for the increase in SO_2 emissions from Unit No. 3 during the waiver period. As with the predicted annual SO_2 concentrations, an improvement in ambient SO_2 levels during the waiver period was predicted for the 24 hour and 3 hour SO_2 concentrations as compared with ambient SO_2 levels predicted for the compliance mode at Homer City. Based upon these modeled results, the Section 111(j) waiver, as proposed, will not result in SO_2 emissions during the waiver period which will prevent attainment and maintenance of national ambient air quality standards for sulfur oxides.

Given the technical nature, functional, and pollutant control characteristics of the MCCS and ancillary processes, the Administrator finds that MCCS will not cause or contribute to an unreasonable risk to public health, welfare or safety. The MCCS and its ancillary process will not emit or discharge pollutants of a hazardous or toxic nature. Further, MCCS and its auxiliary systems have been designed to operate in compliance upon full implementation with all currently applicable Federal and State environmental requirements.

The Section 111(j) waiver as proposed in this rulemaking action is the first such waiver of its kind. Substantial benefits will accrue from MCCS beyond those previously suggested. Various studies indicate that in applicable cases the costs of SO_2 control by physical coal cleaning can be as little as half the cost of SO_2 control by conventional flue gas desulfurization.[15] Thus, the MCCS as designed will provide an additional cost effective control option for complying with SO_2 emission limiting regulations.

Finally, in addition to its sulfur removal capabilities, MCCS is designed to produce coal with a specific uniform sulfur content. Many Federal and State SO_2 emission limiting regulations require instantaneous compliance. Notwithstanding contractual agreements which specify coal characteristics for particular facilities, coal delivered to electric utilities often has large sulfur variability which may pose formidable problems in complying with applicable SO_2 emission limiting regulations on a continuous basis. Availability of technologies which are designed to produce a more uniform sulfur content in coal prior to combustion will enhance the ability of sources to comply with applicable SO_2 requirements.

III. State Concurrence

Pursuant to Section 111(j)(1)(A) of the Act, 42 U.S.C. 7411(j)(1)(A), if subsequent to review and consideration of comments submitted in response to this rulemaking, the Administrator determines to issue a waiver of the Federal New Source Performance Standard for SO_2 to Homer City Unit No. 3, the Administrator shall request the concurrence of the Governor of the Commonwealth of Pennsylvania. Receipt of such concurrence is a

[10] The annual, 24 hour, and 3 hour national ambient air quality standards for sulfur oxides are 80 $\mu g/m^3$, 365 $\mu g/m^3$, not to be exceeded more than once per year, and 1300 $\mu g/m^3$, not to be exceeded more than once per year, respectively. 40 CFR 50.4, 50.5, 38 FR 25681, September 14, 1973.

[11] The four complex terrain air quality dispersion models used were Lappes (Slowik et al. 1977), Egan (Egan et al., 1979 and Issacs et al., 1979), Geomet (Koch 1977), and Cramer (Cramer et al., 1975).

[12] The four complex terrain dispersion models were validated by comparing calculations of hourly concentrations by each of the four dispersion modeling techniques with the SO_2 measurements for 1978 at 17 monitoring sites in the vicinity of the four power plants. Further, 1978 SO_2 hourly estimates of emission rates, gas exit temperatures and speed from the four plants as well as 1978 meteorological data were used in the validation study.

[13] Model inputs for the waiver period also included 1978 meteorology and full load emissions from Homer City Units Nos. 1, 2, and 3 as well as from the three other nearby electric generating plants.

[14] The reduced SO_2 emission limits for Units Nos. 1 and 2 from allowable levels will be incorporated in the Section 111(j) waiver, if ultimately granted, as judicially enforceable requirements.

[15] In a recent evaluation of physical coal cleaning and flue gas desulfurization as control techniques, the Tennessee Valley Authority found that annual revenue requirements for physical coal cleaning generally ranged from 2–3 mills/kWh whereas annual revenue requirements for flue gas desulfurization ranged from 4–6 mills/kWh. See "Evaluation of Physical/Chemical Coal Cleaning and Flue Gas Desulfurization", EPA-600/7-79-250, November 1979. Additionally, where the combination of coal cleaning and scrubbing can be relied upon to maintain compliance with a given SO_2 emission limitation, research has indicated that, generally, it is more cost effective to rely upon both means of control than solely upon flue gas desulfurization. See "Cost Benefits Associated With the Use of Physically Cleaned Coal," EPA-600/7-80-105, May 1980.

prerequisite for a waiver under Section 111(j) of the Act.

This proposed rule has been reviewed and it has been determined that it is a specialized proposal not subject to the procedural requirements of Executive Order 12044.

I certify that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities because it affects only a single facility.

(5 U.S.C. 605(b))

(Section 111(j) of the Clean Air Act, as amended, 42 U.S.C.7411(j))

Douglas M. Costle,

Administrator.

January 13, 1981.

Title 40, Part 60, Subpart D of the Code of Federal Regualtions is proposed to be amended by adding new § 60.47 as set forth below:

§ 60.47 Innovative technology waivers; waiver of sulfur dioxide new source performance standard for Homer City Unit No. 3; multi-steam coal cleaning system innovative technology waiver under section 111 of the Clean Air Act.

(a) Pursuant to Section 111(j) of the Clean Air Act, 42 U.S.C. 7411(j), commencing on 30 days from Promulgation date 19—, Pennsylvania Electric Company and New York State Electric & Gas Corporation shall comply with the following terms and conditions for electric generating Unit Nos. 1, 2, and 3 at the Homer City Steam Electric Generating Station, Center Township, Indiana County, Pennsylvania.

(b) The foregoing terms and conditions shall remain effective through November 30, 1981, and pursuant to Section 111(j)(B), shall be federally promulgated standards of performance. As such, it shall be unlawful for Pennsylvania Electric Company and New York State Electric & Gas Corporation to operate Units Nos. 1, 2, and 3 in violation of the standards of performance extablished in this waiver. Violations of the terms and conditions of this waiver shall subject Pennsylvania Electric Company and New York State Electric & Gas Corporation to Federal enforcement under Sections 113 (b) and (c), 42 U.S.C. 7413 (b) and (c), and 120, 42 U.S.C. 7420, of the Act as well as possible citizen enforcement under Section 304 of the Act, 42 U.S.C. 7604. Pursuant to Section 111(c)(1) of the Act, 42 U.S.C. 7411(c)(1), at 45 FR 3109, January 16, 1980, the Administrator delegated to the Commonwealth of Pennsylvania authority to implement and enforce the Federal New Source Performance Standard of 1.2 lbs $SO_2/10^6$ Btu applicable to Homer City Unit No. 3. The SO_2 emission limitations specified in this waiver for Unit No. 3 are new Federally promulgated new Source Performance Standards for a limited time period. Thus, during the period this waiver is effective, the delegated authority of the Commonwealth of Pennsylvania to enforce the Federal New Source Performance Standard of 1.2 lbs $SO_2/10^6$ Btu applicable to Homer City Unit No. 3 is superceded and enforcement of the terms and conditions of this waiver shall be the responsibility of the Administrator of EPA. The Commonwealth of Pennsylvania may, and is encouraged to, seek delegation of authority, pursuant to Section 111(c)(1), to enforce the temporary Federal New Source Performance Standards specified in this waiver. Should such authority be delegated to the State, the terms and conditions of the waiver shall be enforceable by the Administrator of EPA and the Commonwealth of Pennsylvania, concurrently.)

(c) On December 1, 1981, and continuing thereafter, at no time shall emissions of SO_2 from Unit No. 3 exceed 1.2 lbs/10^6 Btu of heat imput, as specified in 40 CFR 60.43(a)(2) (July 1, 1979).

(d) On January 15, 1982, Pennsylvania Electric Company and New York State Electric & Gas Corporation shall demonstrate compliance with 40 CFR 60.43(a)(2) (July 1, 1979) in accordance with the test methods and procedures set forth in 40 CFR 60.8 (b), (c), (d), (e) and (f) (July 1, 1979).

(e) *Emission Limitations.*

(1) Commencing on [30 days from promulgation date], and continuing until February 28, 1981:

(i) At no time shall emissions of SO_2 from Units Nos. 1, 2, and 3, combined,* exceed 3.0 lbs $SO_2/10^6$ Btu in any running 30 day period and 3.6 lbs $SO_2/10^6$ Btu in a running 24 hour period.

(ii) At no time shall emissions of SO_2 from Units Nos. 1, 2, and 3, summed, exceed 726 tons in a running 24 hour period.

(iii) At no time shall emissions of SO_2 from Units Nos. 1 and 2, summed, exceed 484 tons in a running 24 hour period.

(iv) At no time shall emissions of SO_2 from Units Nos. 1, 2, and 3, summed, exceed 91 tons in a running 3 hour period.

(v) At no time shall emissions of SO_2 from Units Nos. 1, and 2, summed, exceed 61 tons in a running 3 hour period.

(2) Commencing on March 1, 1981, and continuing until November 30, 1981:

(i) At no time shall emissions of SO_2 from Units Nos. 1, 2 and 3, combined, exceed 2.87 lbs $SO_2/10^6$ Btu in any running 30 day period, 3.6 lbs $SO_2/10^6$ Btu in a running 24 hour period, and 3.1 lbs $SO_2/10^6$ Btu on more than 4 running 24 hour periods in any running 30 day period.

(ii) At no time shall emissions of SO_2 from Units Nos. 1, 2 and 3, summed, exceed 695 tons in a running 24 hour period.

(iii) At no time shall emissions of SO_2 from Units Nos. 1 and 2, summed, exceed 463 tons in a running 24 hour period.

(iv) At no time shall emissions of SO_2 from Units Nos. 1 and 2 and 3, summed, exceed 873 tons in a running 3 hour period.

(v) At no time shall emissions of SO_2 from Units Nos. 1 and 2, summed, exceed 61 tons in a running 3 hour period.

(f) *Installation Schedule.*

(1) Pennsylvania Electric and New York State Electric & Gas have selected engineering designs for necessary modifications to the Multi-Stream Coal Cleaning System (MCCS) 93B Circuit.

(2) On or before February 28, 1981, Pennsylvania Electric and New York State Electric & Gas shall place purchase orders for all major equipment necessary to complete necessary modifications to the MCCS 93B circuit.

(3) On or before March 31, 1981, Pennsylvania Electric and New York State Electric & Gas shall complete detailed engineering of the modifications to the MCCS 93B circuit.

(4) On or before September 15, 1981, Pennsylvania Electric and New York State Electric & Gas shall complete construction of the MCCS 93B circuit.

(5) On or before October 15, 1981, Pennsylvania Electric and New York State Electric & Gas shall start-up the MCCS 93B circuit.

(g) *Monitoring and Reporting.* Throughout the waiver period the owners and operators of Homer City Units Nos. 1, 2 and 3 shall acquire sufficient quantities of frequent emission monitoring data to demonstrate concurrent compliance with both the 3 hour and 24 hour SO_2 emission limitations. The owners and operators shall acquire such data from each boiler during every boiler operating day (e.g., fuel being fired in a boiler for at least 18 hours per day). This requirement will be met through the use of Continuous Emission Monitoring System (CEMS) or as supplemented by Continuous Bubbler (CB) data. The company shall acquire emission monitoring data during all

*For paragraphs (e)(1)(i) and (e)(2)(i), "combined" shall mean: The sum of emissions from Units Nos. 1, 2 and 3 divided by the sum of the actual heat input for Units Nos. 1, 2 and 3.

operating periods, specifically including periods of startup, shutdown and malfunctions.

(1) *Minimum Data Requirements.* Using such method(s), the owners and operators shall obtain at least the following quantities of emission compliance data: (i) during each calendar day when the boiler operates for at least 18 hours the owners and operators shall acquire reliable data during at least 75% of those operating hours; and (ii) during each 3 hour portion of the calendar day when the boiler operates the owners and operators shall acquire at least 2 hours of reliable data. Failure to acquire the minimum quantity or quality of data shall constitute a violation of the terms and conditions of this waiver.

(2) *Continuous Emission Monitoring System (CEMS)—Primary Compliance Data.* (i) The owners or operators of Unit Nos. 1, 2 and 3 shall install, test, operate and maintain its CEMS in a fashion specifically designed to result in its acquisition of reliable (as per paragraphs (g) (4) and (5) of this section) data, representative of each boiler's 3 and 24 hour emission rates.

(ii) The CEMS' data shall initially be validated by demonstrating its achievement of Proposed Performance Specifications 2 and 3.[1] subsequently the CEMS' data shall be validated as specified in paragraphs (g) (4) and (5) of this section.

(3) *Continuous Bubbler Technique (CB)—Secondary Compliance Data.*

(i) The owners and operators shall use the CB technique, as a secondary compliance method, to supplement CEMS data whenever the CEMS is out of service or providing insufficient quantity or quality of data. The CB technique shall also be used to assess the validity of the CEMS data.

(ii) The CB technique for quantitatively assessing the SO_2 emission rate (in lb/MM Btu) is delineated in Appendix 1 of this waiver. This technique is based upon combining the standard wet-chemistry (hydrogen peroxide, colorimetric method for determining SO_2 emission concentrations and the gravimetric (absorption of CO_2 onto ascarite) method for determining CO_2 emission concentrations.

(iii) The owners and operators shall initially demonstrate their proficiency with the continuous bubbler technique for SO_2 and CO_2 by comparing the results obtained using the CB method with those obtained using Reference Methods (RM) 3 and 6[2], except that the RMs shall be run as specified in paragraph (g)(4), of this section. The CB data shall be deemed initially acceptable if the results of this comparison are within the limits prescribed in paragraph (g)(4) of this section. Subsequently the CB data shall periodically be revalidated as delineated in paragraph (g)(4) of this section.

(4) *Quality Assurance Checks for CEMS and CB Data.*

The owners or operators of Homer City Units Nos. 1, 2, and 3 shall validate the required emission compliance data by performing at least the quality assurance procedures specified in the following subparagraphs. All of the time periods specified in paragraph (g)(4) of this section shall start on the day that the waiver is granted. Furthermore, if necessary the owners and operators shall take the corrective action specified in paragraph (g)(5) of this section.

(i) *CEMS Data Quality Assurance Checks.* The owners and operators shall perform at least the daily, weekly, biweekly and quarterly checks of the CEMS data specified below.

(A) twenty-four hour zero and calibration drift checks: use calibration gases and calibration procedures specified in reference 1 to audit each (SO_2, O_2) channel:

(*1*) Specification for the SO_2 channel: 2% of span for zero drift, and 2.5% span for the calibration drift; and

$$\text{Zero Drift: } SO_2 \quad \left| \frac{CEMS_z - C_z}{CEMS_s} \right| \times 100 \leq 2.0\%$$

Where:
$CEMS_z$ = Monitor zero, ppm
$CEMS_s$ = Monitor span, ppm
C_z = Zero gas value, ppm
Equation D–1

$$\text{Calibration Drift: } SO_2 \quad \left| \frac{CEMS_r - C_v}{CEMS_s} \right| \times 100 \leq 2.5\%$$

Where:
$CEMS_r$ = Monitor reading, ppm SO_2
C_v = Monitor span, ppm SO_2
$CEMS_s$ = Monitor span, ppm SO_2
Equation D–2

(*2*) Specification for the O_2 channel: 0.5% O_2 for both the zero and calibration drift.

$$\text{Zero Drift: } O_2 \quad \left| CEMS_z - C_z \right| \leq 0.5\% \; O_2$$

Where:
$CEMS_z$ = Monitor zero, % O_2
Equation D–3

$$\text{Calibration Drift: } O_2 \quad \left| CEMS_r - C_v \right| \leq 0.5\% \; O_2$$

Where:
$CEMS_r$ = Monitor reading, % O_2
C_v = Calibration gas value, % O_2
Equation D–4

(B) twenty-four hour mid-range calibration checks for both SO_2 and O_2 channels;

(1) Specification for the SO_2 and O_2 channels: 5% of the calibration gas concentration;

(2) Note: perform this check only after performing the zero and calibration drift checks required above; (following the sequence of checks specified in reference 1):

Midpoint Calibration SO_2

$$\left| \frac{CEMS_r - C_v}{C_v} \right| \times 100 \leq 5.0\%$$

Where:
$CEMS_r$ = Monitor reading, ppm SO_2
C_v = Calibration gas value, ppm SO_2
Equation D–5

Midpoint Calibration O_2:

$$\left| \frac{CEMS_r - C_v}{C_v} \right| \times 100 \leq 5.0\%$$

Where:
$CEMS_r$ = Monitor reading, % O_2
C_v = Calibration gas value, % O_2
Equation D–6

(C) Weekly checks of the entire CEMS (combined SO_2 and O_2 channels): concurrently run duplicate 3 hour CB runs vs CEMS (in lb/MM Btu). For each paired (CB duplicate vs CEMS) set of data, use the following equation to perform this calculation.

Note.—Whenever converting concentration data (e.g., ppm SO_2 and % O_2 or CO_2) to lb SO_2/MM Btu, one shall use an F-factor as set forth in Method 19.[3]

(1) Specification: the CEMS data is considered adequate if the % difference, for each of the 3 hour comparisons is <20%.

Weekly CEMS:

$$\left[\left| \frac{CEMS_3 - \left(\frac{CB_1 + CB_2}{2} \right)}{\left(\frac{CB_1 + CB_2}{2} \right)} \right| \times 100 \leq 20\% \right]$$

Where:
$CEMS_3$ = 3-hour average monitor value, lb SO_2/MMBtu
CB_1, CB_2 = 3-hour average bubbler value, lb SO_2/MMBtu
Equation D–7

(D) Biweekly checks of the entire CEMS: take eight duplicate 3 hour CB runs during a single 24 hour period. Calculate the % difference between the means of each pair of CB runs versus the concurrent CEMS data, using the following equations.

(1) Specification (3 hour): the CEMS data is deemed adequate if, for each of the 3 hour comparisons, the absolute mean % difference is <20%; and

(2) Specification (24 hour): the CEMS data is deemed adequate if the absolute mean % difference is <20%

$$\text{Bi-weekly CEMS (3-hr.):} \left[\frac{\left| \left(\frac{CB_{1,r} + CB_{2,r}}{2} \right) - CEMS_{3,r} \right|}{\left(\frac{CB_{1,r} + CB_{2,r}}{2} \right)} \right] \times 100 \leq 20\%$$

Equation D–8
Where:

$$\text{Bi-weekly, CEMS (24 hr.):} \left[\frac{\left| \sum_{1}^{8} \frac{CB_{1,r} + CB_{2,r}}{2} - \sum_{1}^{8} CEMS_{3,r} \right|}{\sum_{1}^{8} \left(\frac{CB_{1,r} + CB_{2,r}}{2} \right)} \right] = 100 \leq 20\%$$

$CEMS_{3,r}$ = 3-hour monitor average value for run r, lb SO_2/MMBtu
$CB_{1,r}$; $CB_{2,r}$ = 3-hour average bubbler value for run r, lb SO_2/MMBtu

Equation D–9

(E) Quarterly checks of the CEMS will be performed and will include at least: (1) a relative accuracy test; (2) response time test; and (3) a calibration error test (performed in accordance with the procedures delineated in Performance Specifications 2 and 3).[1]

(F) Unscheduled Performance Specification Tests: If, for any reason the CEMS is taken out of service, or its performance is considered unacceptable (as per paragraph (g)(5) of the section, the owners and operators shall test the CEMS to demonstrate that the CEMS is fully capable of achieving the requirements contained in Performance Specifications 2 and 3,[1] *prior* to relying on such data to demonstrate compliance.

(ii) *Quality Assurance Checks for CB Data.*

(A) Weekly checks of the CB: perform these whenever the CB is used to acquire compliance data using the following procedures.

(*1*) A combined calibration gas, containing approximate stack concentrations of SO_2 and CO_2 in N_2 shall be used. The calibration gas concentration shall be determined using the method described in Performance Specifications 2 and 3[1]. The calibration gas shall be passed through the CB for a period of no less than 2 hours at a flow rate consistent with that used during actual emission testing.

(*2*) Specification: the CB data will be considered adequate if the difference between the CB vs calibration gas is not larger than 10%.

$$\text{Weekly CB:} \left| \frac{\left(\frac{CB_1 + CB_2}{2} \right) - CG_x}{CG_x} \right| \times 100 \leq 10\%$$

Where:
CB_1 & CB_2 = X-hour average bubbler value, lb. SO_2/MMTBtu
CG_x = X-hour average combined (SO_2+CO_2) Calibration gas concentration, lb. SO_2/MMBtu

Equation D–10

(B) Quarterly Accuracy tests of the CB data: perform the following whenever the CB is used to acquire compliance data. Conduct two 3-hour series of concurrent continuous bubbler versus Reference Method (RM 3 and 6)[1] tests. The RM runs will each have a duration of 20–60 minutes; and the series should be comprised of virtually "back-to-back" runs of paired RM 3 and 6.

(*1*) Specification: the CB data will be considered adequate if the % difference between the means of each 3 hour vs RM comparision is no larger than 10%.

$$\text{Quarterly CB:} \left| \frac{\left(\frac{CB_1 + CB_2}{2}\right) - RM_3}{RM_3} \right| \times 100 \leq 10\%$$

Where:

CB_1; CB_2 = 3-hour average bubbler value, lb. SO_2/MMBtu

Equation D-11

(iii) *Quality Assurance Checks for Laboratory Analysis*

Periodic precision checks of the laboratory analysis data: perform this whenever acquiring compliance data. For each day that the owners and operators conduct wet chemistry (RM 3, RM 6, CB) analyses, they shall concurrently analyze at least two (EPA Quality Assurance Division) audit samples. This comparison shall be performed using the same procedures, equipment, reagents and personnel, as used on the emission samples.

(A) Specification: the laboratory analysis procedures shall be considered adequate if the difference between the results of the laboratory analysis and each of the two audit sample values is no greater than 5%.

$$\text{Laboratory Audit:} \left| \frac{LV - QAV}{QAV} \right| \times 100 \leq 5\%$$

Where:

LV = Laboratory Value

QAV = Actual Value of Audit Sample

Equation D-12

(5) *Required Quality Assurance Corrective Actions.*

In order to minimize the quantity of inadequate emission date the owners and operators perform its QA checks, analyze the QA sample data and take the corrective actions delineated below in a timely fashion.

(i) *CEMS Data.* If the quality of the CEMS data does not meet the QA specifications given in paragraph (g)(4) of this section (restated in Table 1, below) the monitor must be taken out of service (therefore, the data is considered unreliable).

Table 1.—*Criteria for Taking CEMS Out of Service*

Type of QA check	Specification limit	Allowable duration for being out of specification	Calculation procedures
24-hr zero drift (SO_2)	2 pct of span	3 consecutive days	Equation D-1.
24-hr zero drift (SO_2)	4 pct of span	1 day	Equation D-1.
24-hr calibration drift (SO_2)	2.5 pct of span pct of span	3 consecutive days	Equation D-2.
24-hr calibration drift (SO_2)	5 pct of span	1 day	Equation D-2.
24-hr zero drift (O_2)	0.5 pct O_2 pct of span	3 consecutive days	Equation D-3.
24-hr zero drift (O_2)	1.0 pct O_2	1 day	Equation D-3.
24-hr calibration drift (O_2)	0.5 pct	3 consecutive days	Equation D-4.
24-hr calibration drift (O_2)	1.0 pct O_2	1 day	Equation D-4.
24-hr midpoint check SO_2 and O_2	5 pct of cal gas	3 consecutive days	Equation D-5 (SO_2); equation D-6 (O_2).
24-hr midpoint check SO_2 and O_2	10 pct of cal gas	1 day	Equation D-5 (SO_2); equation D-6 (O_2).
Weekly CEMS versus CB (3 hr)	20 pct	If 1st comparison >20 pct, repeat; 2d comparison must be < 20 pct.	Equation D-7.
Biweekly CEMS versus (3 hr)	20 pct	do	Equation D-8.
Biweekly CEMS versus CB (24 hr)	20 pct	do	Equation D-9.
Quarterly CEMS relative accuracy	20 pct	A single test	See performance specifications 2 and 3.
Calibration error	5 pct	A single test	
Response time	15 min	A single test	

(ii) *Continuous Bubbler Data.*

(A) If the owners and operators relied upon the CB data to document its emission compliance status at *any* time during the previous quarter; *and* if the results of the weekly or quarterly accuracy checks of the CB data document a failure to achieve the allowable specifications contained in paragraph (g)(4)(ii) (A) and (B) of this section (10%), they shall: (*1*) notify the cognizant agencies within 72-hours after this fact is determined and (*2*) be considered in violation of the provisions of this waiver for the number of days which it relied upon CB data to demonstrate compliance with the emission limitations.

(B) if the owners and operators did *not* rely upon the CB data to demonstrate its compliance with the emission limitations during the previous quarter, *and* if the results of the weekly or quarterly accuracy check of the CB data documents a failure to achieve the allowable specifications (contained in paragraphs (g)(4)(ii) (A) and (B) of this section (10%)), they shall continue to repeat such accuracy checks until the required level of proficiency is achieved.

(6) *Compliance Provisions.*

(i). Compliance with the SO_2 emission limitations is to be determined on the basis of data obtained through the use of the primary compliance test method (CEMS), or as supplemented by the secondary compliance test method (CB), or other methods approved by the Administrator. The owners and operators of the affected facility must demonstrate compliance with both the 3-hour and 24-hour SO_2 emission limitations for every "boiler operating day," starting with the effective date of the waiver.

(ii) For the purposes of demonstrating compliance with the emission limitations and the minimum emission data acquisition requirements:

(A) a calendar day starts at 12:01 a.m. and ends at 12:00 p.m. midnight;

(B) there are eight discrete 3-hour periods during each calendar day; and

(C) a boiler operating day is a calendar day during which one or more of the affected boilers combusted fuel for at least 18-hours.

(iii) Compliance with the SO_2 emission limitations are documented when the calculation of the arithmetic sum of the applicable (3 or 24-hour) average emission rates are no greater than the applicable 3-hour and 24-hour limitations. Such calculations are to include all data acquired during all operating modes, including start-up, shut-down and malfunctions. Specific minimum quality assurance procedures must be implemented by the owners and operators in order to help ensure the acquisition and use of validated data when making such calculations.

(iv) If the owners and operators have not obtained the minimum quantity of emission data as required under section D of the waiver, compliance of the affected facility with the emission requirements specified in this waiver may be determined by the Administrator using all available data which he deems relevant.

(v) Failure of the owner or operator of the subject facility to demonstrate compliance with the applicable 3-hour, 24-hour emission limits or the minimum emission data requirements, constitutes a violation of the provisions of the waiver.

(7) *Notification and Reporting Requirements.* (i) *Notification.* The

owners and operators shall provide at least 30 days notice to the cognizant agencies, of its impending quarterly monitor performance specification test and continuous bubbler accuracy test.

(ii) *Quarterly Compliance Assessment Report Requirements.* The owners and operators shall submit to the cognizant agencies, "hard copy" quarterly reports which present compliance data and relevant background data concerning both the emissions and monitoring. Such reports are to be postmarked within 30 days after completion of every (whole or partial) calendar quarter during which the waiver was in effect.

(A) The following specific data shall be furnished for every calendar day:

(*1*) the calendar date,

(*2*) the eight discrete, 3-hour total (of all operating boilers) SO_2 emission rates (in lbs SO_2/MMBtu);

(*3*) the total (all operating boilers) 24-hour average SO_2 emission rate (in lb SO_2/MMBtu);

(*4*) identification of the specific periods during the calendar quarter when each boiler was not combusting fuel;

(*5*) identification of the boiler operating days when sufficient SO_2 emission data have not been obtained by an approved method: for each individual boiler; justification for not obtaining sufficient data; and description of corrective actions taken;

(*6*) identification of the "F" factor used for calculations, method of its determination, and type of fuel combusted;

(*7*) identification of the times when 3-hourly and 24-hourly averages have been obtained based on the continuous bubbler method.

(*8*) if only a portion of the averaging period was monitored, report the total duration when data was acquired and used to calculate both the 3-hour and 24-hour SO_2 emission rates.

(*9*) identification of the times when the pollutant concentration exceeded full span of the CEMS or CB;

(*10*) description of any modification to the CEMS or CB which could affect the ability of those systems to comply with Performance Specifications 2 or 3[1] or the CB performance specifications, respectively;

(*11*) if the minimum quantity of emission data (as required by section D) was not obtained for any boiler operating day the following information is to be reported for each affected boiler:

(*i*) date, start and completion times of the period of inadequate emission data acquisition, and duration of such period;

(*ii*) reason for failure to acquire sufficient data;

(*iii*) corrective action taken;

(*iv*) characteristics (% sulfur ash content, heat content, moisture) of the fuel burned;

(*v*) firing rates and steam production rates; and

(*vi*) estimation (including basis of estimate) of the SO_2 emission rates (3-hour and 24-hour).

(*12*) for any periods for which sulfur dioxide emissions data are not available, the owners and operators of the affected facility shall submit a signed statement indicating if any changes were made in the operation of the boiler or any measurable change in the fuel being fired during the period of data unavailability. Operations of the affected facility during periods of data shall be compared with the operation of the affected facility before and following the period of data unavailability.

(*13*) the owner or operator of the affected facility shall submit a signed statement indicating whether:

(*i*) the required continuous emission monitoring system and continuous bubbler system calibration, span, and drift checks or other periodic audits have or have not been performed as specified.

(*ii*) the data used to show compliance was or was not obtained in accordance with approved methods and procedures including taking account of the results of the quality assurance checks and is representative of boiler performance.

(*iii*) the minimum data requirements have or have not been met; or, the minimum data requirements have not been met due to errors that were unavoidable.

(*iv*) compliance with the standards has or has not been achieved during the reporting period.

(*14*) for each instance when a CEMS outage occurred, the owners and operators shall report:

(*i*) time, date, duration

(*ii*) reason

(*iii*) corrective action taken

(*iv*) duration of time before continuous bubblers began sampling;

(*15*) the owners and operators shall report the procedures used, the results of each quality assurance check made.

(*16*) if the continuous emission monitoring system or the continuous bubblers ever failed to meet the quarterly QA audit checks, the owners and operators shall submit the date and results from all (initial and repetitions) comparative tests performed during the quarter;

(*17*) the owners and operators shall report the laboratory results from the analysis of all audit samples performed during the quarter;

(iv) *Unscheduled Reporting Requirements.*

(A) The owners and operators shall submit the results of all CEMS Performance Specification Tests within 45 days after the initiation of such tests:

(B) The owners and operators shall report, within 72-hours, each instance of:

(*1*) failure to maintain the total (of the 3 boilers) SO_2 emission rate below the emission limitations prescribed in this waiver,

(*2*) failure to acquire the specified minimum quantity of emission data and;

(*3*) failure of the continuous bubbler to meet the quality assurance checks (only if the CB data was being used to demonstrate compliance during the quarter).

References

1. 40 CFR Part 60, Appendix B, Proposed Performance Specifications 2 and 3 (October 10, 1979).

2. 40 CFR Part 60, Appendix A.

Appendix I—Determination of Sulfur Dioxide Emissions From Fossil Fuel Combustion Sources (Continuous Bubbler Method)

1. *Applicability and Principle*

1.1 Applicability. This method applies to the determination of sulfur dioxide (SO_2) emissions from combustion sources in terms of emission rate ng/J (lb/MMBtu).

1.2 Principle. A gas sample is extracted from the sampling point in the stack over a 24-hour or other specified time period. The SO_2 and CO_2 are separated and collected in the sampling train. The SO_2 fraction is measured by the barium-thorin titration method and CO_2 is determined gravimetrically.

2. *Apparatus*

2.1 Sampling. The sampling train is shown in Figure 1; the equipment required is the same as for Method 6, except as specified below:

2.1.1 Impingers. Three 150 ml. Mae West impingers with a 1-mm restricted tip.

2.1.2 Absorption Tubes. Two 51mm x 178 mm glass tubes with matching one-hole stoppers.

2.2 Sample Recovery and Analysis. The equipment needed for sample recovery and analysis is the same as required for Method 6. In addition, a balance to measure within 0.05g is needed for analysis.

3. *Reagents*

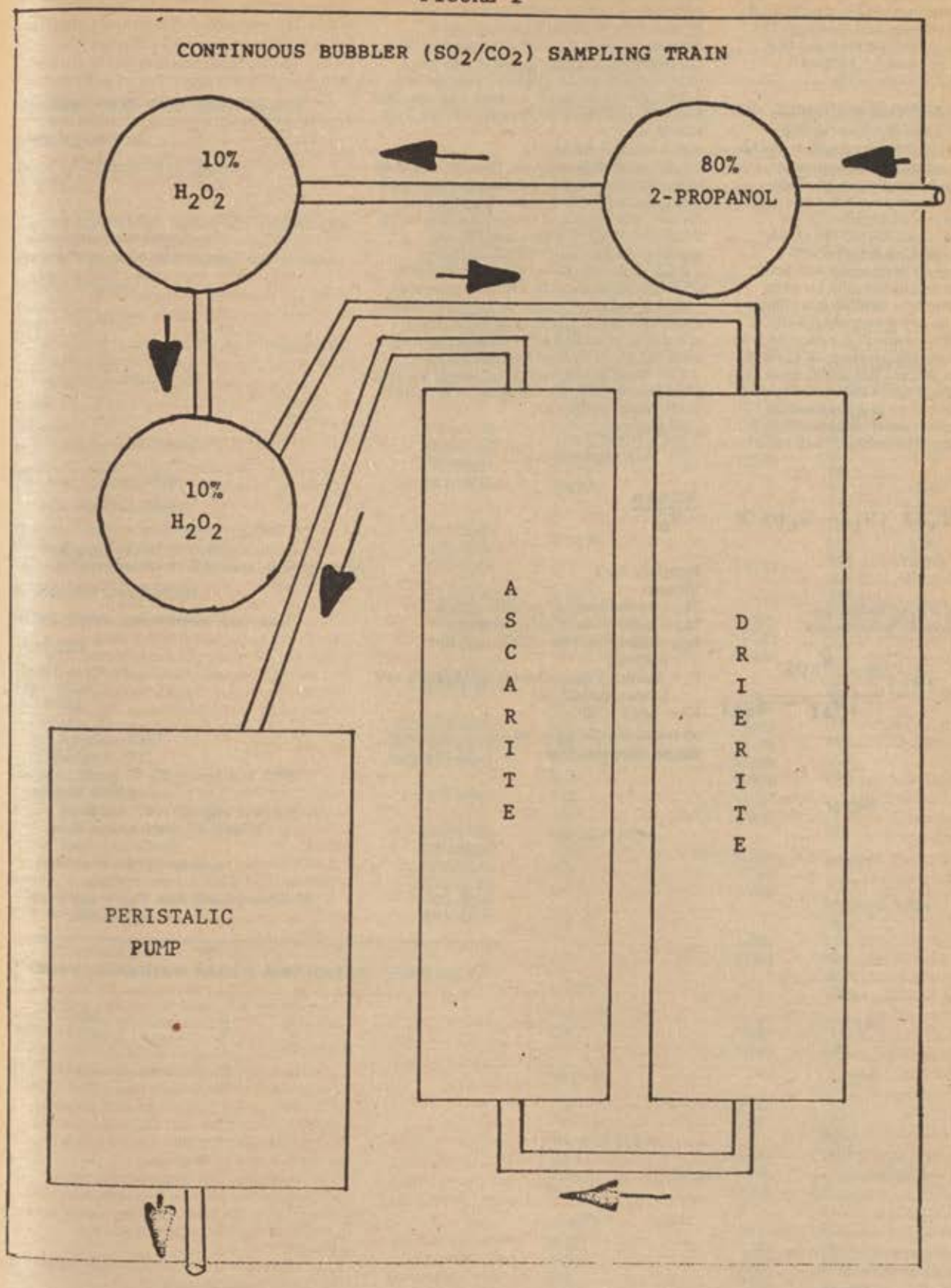
Unless otherwise indicated, all reagents must conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society. Where such specifications are not available, use the best available grade.

3.1 Sampling. The reagents required for sampling are the same as specified in Method 6, except that 10% Hydrogen Peroxide is used. In addition, the following reagents are required:

3.1.1 Drierite. Anhydrous calcium sulfate ($CaSO_4$) dessicant, 8 mesh.

BILLING CODE 6560-33-M

FIGURE 1



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3.1.2 Ascarite. Sodium hydroxide coated asbestos for absorption of CO_2, 8 to 20 mesh.

3.2 Sample Recovery and Analysis. The reagents needed for sample recovery and analysis are the same as for Method 6, sections 3.2 and 3.3 respectively.

4. *Procedure*

4.1 Preparation of Collection Train. Measure 75 ml. of 80% IPA into the first impinger and 75 ml of 10% hydrogen peroxide into each of the remaining impingers. Into one of the absorption tubes place a one-hole stopper and glass wool plug in the end and add 150 to 200 grams of drierite. As the drierite is added shake the tube to evenly pack the absorbent. Cap the tube with another plug of glass wool and a one-hole stopper (use this end as the inlet for even flow). The ascarite tube is filled in a similar manner, using 150–175 grams of ascarite. Clean and dry the outside of the ascarite tube and weigh (at room temperature, 20°C.) to the nearest 0.1 gram. Record this initial mass as M_{ai}. Assemble the train as shown in Figure 1. Adjust the probe heater to a temperature sufficient to prevent water condensation.

4.1.1 Sampling. The bubbler shall be operated continuously at a sampling rate sufficient to collect 70–80 liters of source effluent. The required sampling rate is determined from the desired averaging time. For example, a sampling rate of 0.05 liter/min. is sufficient for a 24-hour average and 0.40 liter per minute for a 3-hour average. The sampling rate shall not, however, exceed 1.0 liter/min.

4.2 Sample Recovery.

4.2.1 Peroxide Solution. Pour the contents of the second and third impingers into a leak-free polyethylene bottle for shipping. Rinse the two impingers and connecting tubes with deionized distilled water, and add the washings to the same storage container.

4.2.2 Ascarite Tube. Allow the ascarite tube to equilibrate with room temperature (about 10 minutes), clean and dry the outside, and weigh to the nearest 0.1g in the same manner as in section 4.1.1. Record this final mass (M_{af}) and discard the used ascarite.

4.3 Sample Analysis. The sample analysis procedure for SO_2 are the same as specified in Method 6, section 4.3.

5. *Calculations*

5.1 SO_2 mass collected.

$$M_{SO2} = 32.03\ (V_t - V_{tb})\ N\ \frac{Vsoln}{V_a}$$

Equation A1–2

Where:

M_{so2} = Mass of SO_2 collected, mg.

5.2 Sulfur dioxide emission rate.

$$E_{SO2} = F_c(K_2)\ \frac{M_{SO2}}{(M_{af} - M_{ai})}$$

Equation A1–1

Where:

M_{ai} = initial mass of ascarite, grams.

M_{af} = final mass of ascarite, grams.

E_{so2} = Emission rate of SO_2, ng/J (lb/mmBtu).

F_c = Carbon F factor for the fuel burned, m^3/J, from Method 19.[2]

$K^2 = 1.829 \times 10^9$

[FR Doc. 81-4314 Filed 2-5-81; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
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DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing January 28, 1981