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Friday
June 12, 1981

Highlights

30997 **President's Economic Policy Advisory Board** Executive order.

30216 **Powerplant and Industrial Fuel Use** DOE/ERA proposes revisions to administrative procedures and exemption criteria applicable to owners or operators of new and existing powerplants and major fuel burning installations. (Part IV of this issue)

31022 **Veterans-Education** VA proposes to lengthen the period of payment of educational assistance to an eligible person who loses eligibility.

31035 **Food Assistance Programs** USDA/FNS announces income poverty guidelines to be used by State agencies in determining income eligibility for participation in Special Supplemental Food Program for Women, Infants and Children.

31018 **Banks, Bankings** FDIC proposes exemption from provisions prohibiting an insured nonmember bank from guaranteeing obligations of third parties. This amendment will allow banks to engage in check-guarantee card and customer-sponsored credit card account practices.

31004 **Ice Cream and Frozen Custard** HHS/FDA extends effective date for complying with the FD&C Yellow No. 5 labeling requirement.

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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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31011 **Veterans Benefits** VA reduces aid and attendance allowance payable to hospitalized veterans.

31004 **Margarine** HHS/FDA amends ingredient labeling requirements.

31067 **Frozen Foods** HHS/FDA recommends and corrects microbiological quality standards for frozen fish sticks, frozen fish cakes, and frozen crab cakes.

31043 **Grant Programs—Education** ED announces 7-24-81 closing date for transmittal of applications for Law School Clinical Experience Program for fiscal year 1981.

31166 **Minimum Wages** Labor/ESA publishes minimum wages for Federal and federally assisted construction. (Part II of this issue)

31204 **Prisoners** Justice/Prisons Bureau proposes rules on management of inmates in Federal correctional institutions. Justice/Federal Prison Industries revises procedures governing operation of Inmate Accident Compensation Program. (2 documents) (Part III of this issue)

31020 **Caffeine** HHS/FDA announces availability of reports which contain information pertinent to agency review of safety of added caffeine.

31001 **Exports—Computers** Commerce/ITA adds new definitions of computer system parameters to assist exporters applying for licenses to export digital computers.

31021 **Environment—"Woodsy Owl"** USDA/FS intends to review regulation for use of Woodsy Owl Symbol.

31000 **Charter Flights** CAB removes restrictions on chargeable administrative costs. (3 documents)

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Presidential Documents

Title 3—

The President

Executive Order 12309 of June 9, 1981

President's Economic Policy Advisory Board

By the authority vested in me as President by the Constitution of the United States of America, and in order to amend the limitations on membership for the President's Economic Policy Advisory Board, it is hereby ordered that the second sentence of Section 1(a) of Executive Order No. 12296 of March 2, 1981, is amended by deleting "from private life who shall be".

Ronald Reagan

THE WHITE HOUSE,
June 9, 1981.

[FR Doc. 81-17700
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Rules and Regulations

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1200

Organizational Structure

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board came into being in January of 1979 pursuant to the President's Reorganization Plan No. 2 and the Civil Service Reform Act of 1978 (Pub. L. 95–454, "The Act"). Since that time the Board has established an organizational structure in order to effectively and efficiently carry out its duties under the Act. The purpose of this amendment to Part 1200 is to add a Subpart B, setting forth this organizational structure in accordance with 5 U.S.C. 552.

EFFECTIVE DATE: June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Paul D. Mahoney, Deputy Managing Director, (202) 254–3063.

This amends 5 CFR Part 1200, by adding a new Subpart B as follows:

Subpart B—Offices of the Board

Sec.
1200.10 Principal organizational units of the Board.
1200.11 The Special Counsel.

§ 1200.10 Principal organizational units of the Board.

(a) The Board is assisted in the performance of its statutory duties by its staff which is divided into the following principal organizational units:
(1) Office of the Managing Director.
(2) Office of the General Counsel.
(3) Office of Appeals.
(4) Office of the Administrative Law Judge.
(5) Office of the Secretary.
(6) Office of Merit Systems Review and Studies.
(7) Office of Administration.
(8) Office of Legislative Counsel.
(9) Field Offices.

(b) *Office of the Managing Director.*
The Managing Director has responsibility for management of all agency operations and programs which support the work of the Board, including supervision of the Board's field offices. The Managing Director, who reports directly to the Chairwoman as chief executive officer, has been delegated authority to make all final decisions in the performance of the Board's personnel management, fiscal management, general administrative support services, procurement and contracts, personnel, document security and claims.

(c) *Office of the General Counsel.*
This office provides legal advice to the Board and its staff and where appropriate under 5 U.S.C. 1205(h) represents the Board in civil actions brought in connection with any of its functions. It also participates in the review of the rules and regulations of OPM on their face and as implemented.

(d) *Office of Appeals.*
This office has the following functions:
(1) reviews the decisions of presiding officials in the field;
(2) processes petitions for review and interlocutory appeals including recommending appropriate action, and recommending reopenings by the Board;
(3) adjudicates cases instituted prior to the effective date of the Act; and
(4) prepares proposed decisions for the Board in interlocutory appeals and actions brought under its appellate jurisdiction which have previously been adjudicated in the field offices.

(e) *Office of the Administrative Law Judge.*
This office is headed by an Administrative Law Judge (ALJ) appointed pursuant to 5 U.S.C. 3105. The ALJ's conduct formal adjudications as provided under the Administrative Procedure Act and issue decisions in accordance with 5 U.S.C. 557. The ALJ's hear cases as assigned by the Board which are particularly sensitive or difficult. Such cases may arise under either the Board's appellate or original jurisdiction.

(f) *Office of the Secretary.*
This office maintains official records of actions by the Board and its members; dockets and tracks all cases pending before the Board; responds to requests for access to Board records; distributes Board orders and publications; makes initial determinations for information under the Freedom of Information and Privacy Acts; and is the official keeper of the Board's seal.

(g) *Office of Merit Systems Review and Studies.*
This office conducts studies of the civil service and other merit systems under 5 U.S.C. 1205(a)(3) to determine whether they are free of prohibited personnel practices and reviews the significant actions of the OPM. The office also participates in the review of the rules and regulations of OPM on their face and as implemented by the agencies.

(h) *Office of Administration.*
This office carries out the financial and personnel management functions of the Board and provides general administrative services.

(i) *Office of Legislative Counsel.*
This office has primarily two functions. First, it undertakes duties relating to Congress and other Executive agencies including: preparing testimony; responding to inquiries; and drafting legislation and bill reports. Second, it provides informational services for the Board including responding to inquiries of the press and the public and assisting in the preparing and distributing of Board publications.

(j) *Field Offices.*
The Board has eleven field offices located throughout the country as set forth in Appendix II of Part 1201. The primary function of the field offices is to adjudicate cases arising under the Board's appellate jurisdiction in accordance with 5 CFR Part 1201 and to render initial decisions as set forth at 5 CFR 1201.111. Each field office is headed by a Chief Appeals Officer who reports to the Managing Director through the Deputy Managing Director.

§ 1200.11 The Special Counsel.

The Special Counsel was established by the Civil Service Reform Act as the unit within the Board charged with the investigation and prosecution of prohibited personnel practices and certain other violations of Federal law. The Special Counsel's duties include bringing actions before the Board for adjudication. The Reform Act provides

independence for the Special Counsel in carrying out these investigative and prosecutorial functions by separating those functions from the Board's adjudicatory role. A further discussion of the function and duties of this office is found at 5 CFR Part 1250.

5 U.S.C. 1205(g) and (i)

By order of the Board.

Ruth T. Prokop,

Chair.

June 8, 1981.

[FR Doc. 81-17550 Filed 6-11-81; 8:45 am]

BILLING CODE 7400-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 207

[Economic Regulations Amdt. No. 30; Docket: 39173; Regulation ER-1224]

Charter Trips and Special Services; Removal of Restrictions on Chargeable Administrative Costs

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata charters to remove restrictions on chargeable administrative costs.

DATES: Adopted: May 22, 1981. Effective: July 12, 1981.

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

SUPPLEMENTARY INFORMATION: In response to a suggestion by Transamerica Airlines, Inc., the Board proposed in EDR-419, 46 FR 10164, February 2, 1981, to remove the restrictions on the administrative costs that can be charged to pro rata charters. Sections 207.43, 208.213, and 212.43 provide that only $500 of the administrative costs of organizing a charter flight may be divided among charter participants per roundtrip flight. The ceiling is reduced to $300 when there are fewer than 80 charter participants. If total expenditures, exclusive of expenses for air transportation or land tours, exceed $750 per round trip flight, the expenditures must be supported by properly authenticated vouchers.

No comments were filed. Because the restrictions on administrative costs chargeable to pro rata charters are an outdated and unnecessary governmental intrusion, they are being eliminated. No amendment to 214.33, as was proposed in EDR-419 is necessary because that section was removed in ER-1223, FR 28379, May 26, 1981.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act (Pub. L. 96-354), the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Although some of the carriers that are subject to Parts 207, 208, and 212 are small businesses, they will not be significantly affected by this proposal.

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

1. The authority for Part 207 is:

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

§ 207.43 [Amended]

2. Paragraphs (c) and (d) of § 207.43 are removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-17594 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 208

[Economic Regulations Amdt. No. 30; Docket: 39173; Regulation ER-1225]

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

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata charters to remove all restrictions on administrative costs.

DATES: Adopted: May 22, 1981. Effective: July 12, 1981.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: A full discussion of this action is in ER-1224, adopted today.

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

1. The authority for Part 208 is:

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

§ 208.213 [Amended]

2. Paragraphs (c) and (d) of § 208.213, Charter Costs, are removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-17585 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 212

[Economic Regulations Amdt. No. 40; Docket: 39173; Regulation ER-1226]

Charter Trips By Foreign Air Carriers; Removal of Restrictions on Administrative Costs

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules governing pro rata charters to remove all restrictions on administrative costs.

DATES: Adopted: May 22, 1981. Effective: July 12, 1981.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: A full discussion of this action is in ER-1224, adopted today.

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

1. The authority for Part 212 is:

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

§ 212.43 [Amended]

2. Paragraphs (c) and (d) of § 212.43, Charter Costs, are removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-17586 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 302

[Procedural Regulations Amdt. No. 63; Regulation PR-230]

Rules of Practice in Economic Proceedings; Editorial Correction

AGENCY: Civil Aeronautics Board.

ACTION: Editorial amendment.

SUMMARY: This rule makes an editorial correction to the title of § 302.505 concerning complaints requesting suspension of tariffs and revises the authority citation.

DATES: Adopted: June 8, 1981. Effective: June 8, 1981.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules and Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: When section 302.505 was amended by PR-194, 44 FR 9578, February 13, 1979, the title was not amended to reflect the changes that eliminated a provision for replies to answers against complaints requesting suspension of tariffs. Our reasons for the amendment are discussed in ER-1104, 44 FR 9576, February 13, 1979. In particular, because of new notice periods made by the Airline Deregulation Act of 1978 (Pub. L. 95-504), we could no longer adhere to the three-pleading system indicated in the subsection's title. The discrepancy between the title and the contents has led to some confusion.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 302 as follows:

1. The authority for Part 302 is revised to read:

Authority: Sec. 101, 203, 204, 401, 402, 403, 404, 406, 412, 416, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 771, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1386, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; E.O. 11514, Pub. L. 91-90, 42 U.S.C. 4321; 84 Stat. 772, 39 U.S.C. 5402.

2. The title to § 302.505 and the Table of Contents are revised to read:

Sec.

302.505 Complaints requesting suspension of tariffs—answers to such complaints.

By the Civil Aeronautics Board.

David M. Kirstein,

General Counsel.

[FR Doc. 81-17587 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 376

Computer System Parameters: Definitions

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

ACTION: Interim rule with request for comments.

SUMMARY: Four new definitions of computer system parameters are added to the Export Administration Regulations. These definitions will assist exporters who must supply parameter information when applying for licenses to export digital computers.

DATES: The changes announced in this document are effective June 12, 1981. This rule may be further revised in light of any comments received. Comments must be received by the Department before noon, August 11, 1981.

ADDRESS: Written comments (five copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

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

SUPPLEMENTARY INFORMATION: The export of digital computers is controlled for national security purposes. When exporters apply for licenses to export or reexport digital computers to destinations in Country Groups P, Q, W and Y (see Supplement No. 1 to Part 370 of the Export Administration Regulations for a complete listing of countries included in these Country Groups), or to upgrade existing digital computer installations in those areas, they must file Form ITA-6031P, "Computer System Parameters," with their application. Exporters use this form to identify equipment proposed for export and describe its capabilities.

Section 376.10(a)(4) of the Export Administration Regulations contains definitions of terms commonly used in evaluating digital computers. These definitions are intended to assist exporters in calculating data and values required on Form ITA-6031P. This change adds four new definitions to § 376.10(a)(4).

Rulemaking Requirements and Invitation to Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close August 11, 1981. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public

comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, § 376.10(a)(4) of the Export Administration Regulations (15 CFR Part 368 *et seq.*) is amended by adding new subdivisions (xx), (xxi), (xxii) and (xxiii) reading as follows:

§ 376.10 Electronic computers and related equipment.

(a) * * *

(4) * * *

(xx) Vector add rate (VAR) and vector move rate (VMR) are the reciprocals of average execution time, define as follows for Add and Move operations:

The "average execution time" is the time required to perform an optimal number (the number that minimizes the time per instruction) of operations on an array of operands divided by the number of such operations.

Note.—The "average execution time" above is the fastest time certified or openly published by the manufacturer as the average value under the conditions of this subparagraph with no indexing or indirect operations being included. If only the minimum and maximum execution times of an instruction are published, then the "average execution time" is the sum of the maximum execution time of an instruction and twice the minimum execution time of an instruction divided by three. For CPUs simultaneously fetching more than one instruction in one memory word, the "average execution time" shall be the average over the possible locations of the instruction within the fetched word.

(xxi) Fast Fourier Transform processing times should be computed as follows:

(A) The "one-dimensional real FFT processing time" for specialized processing units is the average time to compute a one-dimensional real FFT algorithm on a sequence of 1,024 element arrays of fixed or floating point operands.

(B) The "two-dimensional complex FFT processing time" for specialized processing units is the time to compute a two-dimensional complex FFT algorithm on a 512 by 512 element array of fixed or floating point operands.

Note.—The time of (A) and (B) above is the minimum time achievable fully utilizing all hardware architectural features (including, inter alia, multiple and/or staged (pipelined) arithmetic units), optimal operand lengths and optimal operand locations in the most immediate memory (the portion of main memory most directly accessible by the CPU) and ignoring initialization, interrupts, and data reordering times.

(xxii) "Specialized processing units" (ATP, image processors, etc.) are equipment utilizing firmware and/or hardware architectural techniques optimizing the processing of data or data streams by various mathematical algorithms or in parallel under the control of one or more instruction streams. In particular these include those units which are optimized for digital signal processing or image enhancement or multi-data-stream processing.

(xxiii) A "microprogram" is a sequence of elementary hardware or firmware instructions that correspond to an operation that is maintained in special storage and whose execution is initiated by the introduction of an instruction into an instruction register.

(Secs. 3, 5, 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Dated: May 26, 1981.

William V. Skidmore,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 81-17425 Filed 6-11-81; 8:45 am]

BILLING CODE 3510-25-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Fees for Search and Duplication of Records

AGENCY: Tennessee Valley Authority.

ACTION: Final rulemaking.

SUMMARY: The Tennessee Valley Authority (TVA) amends its Freedom of Information Act regulations regarding fees charged for search and duplication of records. The amended regulations reflect charges for supervisory or professional time spent in the identification of requested documents. TVA adopts an hourly rate of $15 for supervisory or professional time. TVA also is raising the clerical rate from $4.15 per hour to $6.40 per hour, the current hourly rate for clerical employees most likely to be involved in search and duplication of documents.

DATE: This notice is effective June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Louis Gwin, Assistant Director of Information, Tennessee Valley Authority, Knoxville, Tennessee 37902, (615) 632-2829.

SUPPLEMENTARY INFORMATION: On August 4, 1980, (45 FR 51614), the Tennessee Valley Authority published in the **Federal Register** proposed amendments to its regulations about fees for the search and duplication of TVA records requested under the Freedom of Information Act, 5 U.S.C. § 552. An opportunity for the public to comment on the proposed amendments was given. No comment was received and the amendments are adopted as proposed.

Accordingly, 18 CFR § 1301.2 is revised to read as follows:

§ 1301.2 Schedule of fees.

(a) *Basis.* Except as otherwise provided in paragraph (c) of this section, TVA records which are available for public inspection under § 1301.1 are made available upon payment of uniform fees which will approximately cover the direct costs to TVA of searching for, compiling, transporting, and copying the records.

(b) *Fees.* The following fees are applicable:

(1) *Time charges.* For time spent by clerical employees searching files, compiling requested material from files, and making any requested copies the charge is $6.40 per hour. For time spent by supervisory and professional employees, the charge is $15 per hour.

(2) *Duplication charges.* For reproduction of requested material which consists of sheets no larger than 8½ by 14 inches, the charge is 10 cents per page. For reproduction of other materials, the charge is the direct cost of photostat or other means necessarily used for duplication.

(3) *Other charges.* Where a response to a request requires services or materials (including personnel) other than the common ones described in paragraphs (b) (1) and (2) of this section, the charge is the direct cost of such services and materials to TVA, but only if the requestor has been notified of such cost before it is incurred, or if the request contains a statement accepting responsibility for the costs to be incurred.

(c) *Waiver or reduction of fees.*

(1) No time charge is made with respect to any request for records requiring less than four (4) hours' time for searching and reproducing documents.

(2) If it is determined by TVA that all material requested is exempt from disclosure under § 1301.1 of this part,

and TVA accordingly declines to furnish all such material, no fees shall be charged. TVA may waive or reduce fees otherwise chargeable under this section upon its determination that waiver or reduction is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

Dated: June 4, 1981.

W. F. Willis,

General Manager.

[FR Doc. 81-17423 Filed 6-11-81; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding medical devices to redelegate certain authorities to additional officials in the Bureau of Medical Devices (BMD) and the Bureau of Radiological Health (BRH). The action will provide greater operating flexibility, more effective and efficient operations, and more expeditious handling of regulated submissions.

EFFECTIVE DATE: June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: Section 5.45 (21 CFR 5.45) is amended by adding the Associate Director for Compliance, BMD, and the Director, Division of Compliance, BRH, to the delegates authorized to perform functions relating to the export of medical devices. Section 5.47 (21 CFR 5.47) is amended by adding those same officials to the delegates authorized to perform functions relating to detention of medical devices that may be adulterated or misbranded.

Section 5.50 (21 CFR 5.50) is amended by adding the Deputy Director and the Associate Director for Device Evaluation, BMD, to the delegates authorized to perform functions relating to notification to petitioners of determinations made on petitions for reclassification of medical devices.

Section 5.52 (21 CFR 5.52) is amended by adding the Deputy Director and the Associate Director for Device Evaluation, BMD, and the Director and Deputy Director, BRH, to the delegates authorized to perform functions relating to notification of sponsors of deficiencies in petitions for reclassification of medical devices.

Section 5.53 (21 CFR 5.53) is amended by adding the Deputy Director and the Associate Director for Device Evaluation, BMD, to the delegates authorized to perform functions relating to the approval, disapproval, revocation, or declaration as complete or incomplete product development protocols and the approval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices. Section 5.59 (21 CFR 5.59) is amended by adding those same officials to the delegates authorized to perform functions relating to approval, disapproval, or withdrawal of applications for investigational device exemptions and termination of certain notices of claimed investigational exemptions for a new drug.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 5 is amended:

1. By revising § 5.45(e) to read as follows:

§ 5.45 Imports and exports.

* * * * *

(e) The Director, Deputy Director, and the Associate Director for Compliance of the Bureau of Medical Devices and the Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Radiological Health, for medical devices assigned to their respective Bureaus, Regional Food and Drug Directors, and District Directors are authorized to perform all the functions of the Commissioner of Food and Drugs pertaining to exportation of medical devices under section 801(d) of the Federal Food, Drug, and Cosmetic Act.

2. By revising § 5.47 to read as follows:

§ 5.47 Detention of adulterated or misbranded medical devices.

The Director, Deputy Director, and the Associate Director for Compliance of the Bureau of Medical Devices and the Director, Deputy Director, and the Director of the Division of Compliance of the Bureau of Radiological Health, for medical devices assigned to their respective Bureaus, Regional Food and Drug Directors, and District Directors are authorized to perform all the functions of the Commissioner of Food and Drugs pertaining to detention under section 304(g) of the Federal Food, Drug, and Cosmetic Act of medical devices that may be adulterated or misbranded.

3. By revising § 5.50 to read as follows:

§ 5.50 Notification to petitioners of determinations made on petitions for reclassification of medical devices.

The Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices are authorized to notify petitioners of:

(a) Determinations made on petitions for reclassification of medical devices that are classified in class III (premarket approval) by section 513(f) and 520(l) of the Federal Food, Drug, and Cosmetic Act (the act);

(b) Denials of petitions for reclassification of medical devices that are submitted under section 513(e) (except for petitions submitted in response to **Federal Register** notices initiating standard-setting under section 514(b) of the act or premarket approval under section 515(b) of the act).

4. By revising § 5.52 to read as follows:

§ 5.52 Notification to sponsors of deficiencies in petitions for reclassification of medical devices.

The Director, Deputy Director, and the Associate Director for Device Evaluation of the Bureau of Medical Devices, and the Director and Deputy Director of the Bureau of Radiological Health, for medical devices assigned to their respective Bureaus, are authorized to notify sponsors of deficiencies in petitions for reclassification of medical devices submitted under sections 513(f) and 520(l) of the Federal Food, Drug, and Cosmetic Act.

5. By revising § 5.53 (a) and (b) to read as follows:

§ 5.53 Appproval, disapproval, or withdrawal of approval of applications for premarket approval for medical devices.

(a) The Director, Deputy Director, and Associate Director for Device Evaluation of the Bureau of Medical Devices are authorized to approve, disapprove, revoke, or declare as complete or incomplete product development protocols for medical

devices submitted under section 515(f) of the Federal Food, Drug, and Cosmetic Act.

(b) The Director, Deputy Director, and Associate Director for Device Evaluation of the Bureau of Medical Devices are authorized to approve, disapprove, or withdraw approval of applications for premarket approval for medical devices submitted under sections 515 and 520(l) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

6. By revising § 5.59 to read as follows:

§ 5.59 Approval, disapproval, or withdrawal of applications for investigational device exemptions.

The Director, Deputy Director, and Associate Director for Device Evaluation of the Bureau of Medical Devices are authorized to approve, disapprove, or withdraw applications for investigational device exemptions submitted under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

Effective date. This regulation shall become effective June 12, 1981.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: June 4, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17235 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 74, 101, 135

[Docket No. 79N-0116]

FD&C Yellow No. 5 Labeling of Ice Cream and Frozen Custard; Extension and Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Extension and confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is extending from July 1, 1981, to July 1, 1982, the time for complying with the amendment of the standard of identity for ice cream and frozen custard (21 CFR 135.110(f)) and with the label declaration of FD&C Yellow No. 5 required by 21 CFR 74.705(d)(2) and 21 CFR 101.22(c), as the latter two sections apply to ice cream and frozen custard. The purpose of the extension is to allow manufacturers to make the label changes in an orderly, efficient manner. Because no objections were received on the final regulations, other than a petition to extend the effective date by an additional year, FDA confirms that the regulation will be effective on July 1, 1982.

EFFECTIVE DATE: Compliance with 21 CFR 135.110(f) may have begun November 25, 1980. All affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1982, shall fully comply.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: FDA issued a final regulation in the **Federal Register** of September 26, 1980 (45 FR 63837) amending the standard of identity for ice cream and frozen custard (21 CFR 135.110(f)) to require label declaration of FD&C Yellow No. 5 when it is used in either of these foods (Docket No. 79N-0116). This amendment implements the provisions of 21 CFR 74.705(d)(2) and 21 CFR 101.22(c) that, effective July 1, 1981, will require the declaration of FD&C Yellow No. 5 on the labels of all foods in which the color additive is used, including butter, cheese, and ice cream.

Because food standards are promulgated by formal rulemaking, in the final regulation amending the standard of identity for ice cream and frozen custard FDA gave persons adversely affected an opportunity to submit objections and requests for hearing. Although no objections or requests were received, the International Association of Ice Cream Manufacturers (IAICM) submitted a petition to delay the effective date of the regulation by 1 year. Although IAICM did not object to the labeling requirement itself, the association contended that the label revisions necessary to meet the July 1, 1981 effective date will be costly because the industry recently underwent a major label revision to comply with labeling requirements that became effective July 1, 1979 (42 FR 35152; July 8, 1977). The IAICM stated that the additional costs of another label change following so closely on the previous change will be a burden to manufacturers that ultimately will affect consumers. Therefore, the IAICM requested that the effective date of the FD&C Yellow No. 5 labeling requirement for ice cream and frozen custard be delayed until July 1, 1982, with the provision that any label revisions initiated for the affected product containers before July 1, 1982, shall be in accordance with all applicable provisions of 21 CFR Parts 74 and 101.

FDA concludes that IAICM has presented reasonable grounds in support of the request. Therefore, FDA is extending the effective date of § 135.110(f) to July 1, 1982, from July 1, 1981, and is confirming the July 1, 1982 effective date. Further, to eliminate conflicting effective dates for complying with the new labeling requirements for FD&C Yellow No. 5 in ice cream and frozen custard, FDA advises that, by this notice, it is also extending the effective date for complying with §§ 74.705(d)(2) and 101.22(c), as these two sections apply to ice cream and frozen custard, from July 1, 1981, to July 1, 1982; however, the July 1, 1981 effective date will remain in effect for all other products.

Sections 74.705(d)(2) and 101.22(c) were published under Docket No. 77N-0009 as a final rule in the **Federal Register** of June 26, 1979 (44 FR 37212), and their effective date was confirmed on September 12, 1980 (45 FR 60419).

A copy of the petition is available for public review at the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., under Docket No. 79N-0116.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046 as amended, 1055-1056 as amended (21 U.S.C. 341, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) there being no objections or requests for a hearing in response to the final regulation, notice is given that 21 CFR 135.110(f), as set forth in the **Federal Register** of September 26, 1980 (45 FR 63837), will be effective July 1, 1982. Voluntary compliance may have begun November 25, 1980. Notice is also given that 21 CFR 74.705(d)(2) and 21 CFR 101.22(c), as set forth in the **Federal Register** of June 26, 1979 (44 FR 37212), as they apply to ice cream and frozen custard only, will also be effective July 1, 1982.

Dated: June 4, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17301 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 166

[Docket No. 78P-0254]

Margarine Labeling

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

margarine labeling regulations by deleting those provisions which set forth the names by which certain ingredients in oleomargarine or margarine should be declared. This will eliminate duplications and inconsistencies in the ingredient labeling requirements for margarine.

EFFECTIVE DATES: July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Voluntary compliance: August 11, 1981.

Objections by July 13, 1981.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 5, 1979 (44 FR 57422), FDA proposed to amend the margarine labeling regulations (21 CFR 166.40) by deleting those provisions, paragraph (b) (1) through (10), which set forth the names by which certain ingredients in oleomargarine or margarine should be declared. This action was taken to eliminate inconsistencies with, or duplications of, the margarine standard of identity labeling requirements and requirements under 21 CFR Part 101. One comment was received from the National Association of Margarine Manufacturers (NAMM) in response to the proposal. The issues raised by NAMM and the agency responses are as follows:

1. NAMM requested that FDA continue to allow the grouping of the fats and/or oils used in margarine and oleomargarine without requiring the identifying phrase before the list of fats and/or oils as established by 21 CFR 101.4(b)(14). NAMM stated that the consumers are already aware that margarine is typically a "vegetable oil blend" and that an identifying phrase will confuse them.

FDA does not agree that the addition of the identifying phrase before a parenthetical listing of the fat and/or oil ingredients will confuse the consumer. On the contrary, the listing of fat and/or oil ingredients as required by § 101.4(b)(14) makes it clear to the consumer that the major portion of the product is a blend of the listed fats and/or oils and that such fats and/or oils are not in the ingredient statement in order of predominance. Thus, the consumer is put on notice that the individual fat or oil ingredients may be present in the amounts less than the amounts of the other ingredients appearing in the ingredient statement. FDA concludes that the labeling requirements as established in 21 CFR Part 101 are in the consumers' best interest and, therefore, if a manufacturer chooses to group the fats and/or oils, the ingredient statement of some labels will have to be changed to include an identifying phrase followed by the parenthetical listing of the fats and/or oils.

2. NAMM stated that butter is listed as an optional ingredient in § 166.40(b)(3) but not in § 166.110 and requested clarification of the use of butter as an optional ingredient.

The question of the use of butter as an optional ingredient included in the term "milk products" was addressed in the Federal Register of September 14, 1973 (38 FR 25671). In that document, FDA stated that "butter may be added without limit as a milk and/or milk product ingredient, providing that some other fat or oil ingredient under § 45.1(a)(1) (currently § 166.110(a)(1)) is also used as part of the 80 percent fat minimum." The deletion of § 166.40(b)(3) does not affect the use of butter as an optional ingredient in margarine.

3. NAMM expressed a concern that manufacturers would no longer be allowed to declare vitamins A and D in conjunction with their sources in the ingredient listing.

FDA advises that, although the phrases, "vitamin A added" or "with added vitamin A" and "vitamin D added" or "with added vitamin D," are no longer required. They are not prohibited and may continue to be placed on the label as long as the required information concerning source and nutrition comply with the applicable sections of Part 101.

FDA recognizes that the proposed effective date of July 1, 1981, has been passed and therefore the effective date for compliance with the amendment is now July 1, 1983, the new uniform effective date for complying with new labeling requirements published after October 31, 1980.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 166 is amended by revising § 166.40(b) to read as follows:

§ 166.40 Labeling of margarine.

* * * * *

(b) The identity standard for oleomargarine or margarine applies to both the uncolored and the colored article.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 13, 1981 submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin August 11, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply. Notice of the filing of objections or lack thereof will be published in the Federal Register.

Dated: June 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17437 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 178

[Docket No. 80F-0194]

Indirect Food Additives; Di-n-Alkyl (C_8-C_{10}) Dimethylammonium Chloride, n-Alkyl (C_{12}-C_{16}) Benzyldimethylammonium Chloride and Ethyl Alcohol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of di-*n*-alkyl(C_8–C_{10})dimethylammonium chloride, *n*-alkyl(C_{12}–C_{18})benzyldimethylammonium chloride and ethyl alcohol as components of sanitizing solutions. The agency is taking this action in response to a petition filed by Lonza, Inc.

DATES: Effective June 12, 1981; objections by July 13, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St., SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 27, 1980 (45 FR 43473), FDA announced that a food additive petition (FAP OH3502) had been filed by Lonza, Inc., Fair Lawn, NJ 07410, proposing that § 178.1010 (21 CFR 178.1010) of the food additive regulations be amended to provide for the safe use of di-*n*-alkyl(C_8–C_{10})dimethylammonium chloride compounds, *n*-alkyl(C_{12}–C_{18})benzyldimethylammonium chloride compounds and ethyl alcohol as components of a sanitizing solution to be used on food-contact surfaces.

Having evaluated the data in the petition and other relevant material, FDA concludes that the proposed food additive use is safe and that § 178.1010 of the regulations should be amended as set forth below.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's findings of no significant impact and the evidence supporting that document may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), Part 178 is amended in § 178.1010 by adding new paragraphs (b)(22) and (c)(17) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(22) An aqueous solution containing (1) di-*n*-alkyl(C_8-C_{10}) dimethylammonium chloride compounds having average molecular weights of 332–361, (2) *n*-alkyl (C_{12}-C_{18}) benzyldimethylammonium chloride compounds having average molecular weights of 351–380 and consisting principally of alkyl groups with 12 to 16 carbon atoms with or without not over 1 percent each of groups with 8 and 10 carbon atoms, and (3) ethyl alcohol. The ratio of compound (1) to compound (2) is 60 to 40.

* * * * *

(c) * * *

(17) Solutions identified in paragraph (b)(22) of this section shall provide, when ready to use, at least 150 parts per million and not more than 400 parts per million of active quaternary compound.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 13, 1981 submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 12, 1981.

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

Dated: June 1, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR. 81–17433 Filed 6–11–81; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 178

[Docket No. 80F–0160]

Indirect Food Additives, Antioxidants and Stabilizers; Octadecyl 3,5-di-tert-butyl-4-hydroxy-hydrocinnamate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the expansion of the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer as a component of polycarbonate resins in articles intended for food-contact use. This action responds to a food additive petition filed by Ciba-Geigy Corp.

DATES: Effective June 12, 1981; objections by July 13, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin Mack, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 30, 1980 (45 FR 36523), FDA announced that a food additive petition (FAP 0B3504) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing to amend § 177.1580 *Polycarbonate resins* (21 CFR 177.1580) to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and thermal stabilizer for polycarbonate resins used in articles intended for food-contact use. This document corrects that notice to read that the food additive petition (FAP 0B3504) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing to amend § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for polycarbonate resins complying with

§ 177.1580 used in articles intended for food-contact use.

FDA has evaluated data in the petition and other relevant information and has concluded that the proposed use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and thermal stabilizer for polycarbonate resins used in articles intended for food-contact use is safe, and that § 178.2010 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), Part 178 is amended in § 178.2010(b) by adding a new limitation for "Octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* *
Octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate (CAS Reg. No. 2082-79-3).	For use only: * * * 8. At levels not to exceed 0.3 percent by weight of polycarbonate resins that comply with § 177.1580 and that contact food only under conditions of use E, F, and G described in table 2, § 176.170(c) of this chapter.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 13, 1981 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation becomes effective June 12, 1981.

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

Dated: June 2, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17435 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 178

[Docket No. 80F–0219]

Indirect Food Additives; Tris(2,4-di-Tert-Butylphenyl)-Phosphite

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)-phosphite as an antioxidant and thermal stabilizer for ethylene-vinyl acetate copolymers intended for use in contact with food and complying with § 177.1350 (21 CFR 177.1350), as requested in a petition filed by Ciba-Geigy Corp.

DATES: Effective June 12, 1981; objections by July 13, 1981.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Neal D. Singletary, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 15, 1980 (45 FR 47473), FDA announced that a food additive petition (FAP 0B3511) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)-phosphite as an antioxidant and thermal stabilizer for ethylene-vinyl acetate copolymers intended for use in contact with food and complying with § 177.1350.

Having evaluated data in the petition and other relevant materials, FDA concludes that tris(2,4-di-*tert*-butylphenyl)-phosphite is safe for its intended use and that § 178.2010 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 178 is amended in § 178.2010(b) by inserting alphabetically a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitation
* * *	* *
Tris (2,4-di-*tert*-butylphenyl)-phosphite (CAS Reg. No. 31570-04-4).	For use only: At levels not to exceed 0.2 percent by weight of ethylene-vinyl-acetate copolymers complying with § 177.1350 of this chapter, provided that the finished polymer contacts food only under conditions of use E, F, and G described in Table 2 of § 176.170(c) of this chapter; and further provided that the average thickness of such polymers in the form in which they contact fatty food shall not exceed 0.1 millimeter (0.004 inch).
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 13, 1981 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this

regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 12, 1981.

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

Dated: June 4, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17436 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP OH5267/R74; PH-FRL-1851-4]

Chlorpyrifos; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 21 CFR Part 193 by establishing a food additive regulation for residues of the insecticide chlorpyrifos in or on mint oil at 10 parts per million (ppm). This regulation was requested by the Interregional Research Project No. 4 (IR–4). This rule establishes a maximum permissible level for residues of chlorpyrifos in or on mint oil.

EFFECTIVE DATE: Effective on June 12, 1981.

ADDRESS: Written objections may be submitted to the Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of October 15, 1980 (45 FR 68461), that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has filed a food additive petition (FAP 0H5267) with the EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington.

This petition proposed that 21 CFR Part 193 be amended by establishing a regulation permitting combined residues of chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on mint oil with a tolerance limitation of 10 ppm resulting from application of chlorpyrifos to growing mint. A related document (PP OE2372/R317) establishing tolerance for combined residues of chlorpyrifos and its metabolite on mint hay appears elsewhere in this issue of the **Federal Register.** No comments were received by the agency in response to this notice of filing.

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance of 10 ppm in or on mint hay were 2-year rat and dog feeding studies each with no-observable-effect-levels (NOELs) of 0.1 milligram (mg)/kilogram (kg)/day based on red blood cell anticholinesterase (RBC AChE) effects and 3.0 mg/kg/day based on systemic effects. The rat feeding study gave negative oncogenic potential; a three-generation rat reproduction study with NOEL of 1.0 mg/kg/day (highest dose); a 2-year mouse oncogenicity study negative at 15 ppm (highest dose); a mouse teratology study negative at 25 mg/kg (highest dose); a hen delayed neurotoxicity study negative at 100 mg/kg.

The acceptable daily intake (ADI), based on the rat feeding study (RBC AChE NOEL of 0.1 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60 kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.4114 mg/day. The current action will utilize less than 1 percent of the ADI. Published tolerances utilize 32.5 percent of the ADI.

The metabolism of chlorpyrifos is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical. Tolerances have previously been established for residues of chlorpyrifos and its metabolite on a variety of raw agricultural commodities ranging from 0.05 ppm to 6 ppm.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 76 U.S.C. 136 *et seq.*).

Based on the above information considered by the agency, it is concluded that the tolerance of 10 ppm established by amending 21 CFR Part 193 would protect the public health. Therefore, the regulation is being established as set forth below.

Any person adversely affected by this regulation may, or or before July 13, 1981, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on June 12, 1981.

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

Dated: June 4, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator, Office of Pesticide Programs.

Therefore, Subpart A of 21 CFR Part 193 is amended by adding a new paragraph (e) to § 193.85 to read as follows:

§ 193.85 Chlorpyrifos.

* * * * *

(e) A tolerance of 10 parts per million is established for combined residues of chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in mint oil resulting from

application of the insecticide to growing mint.

[FR Doc. 81-17525 Filed 6-11-81; 8:45 am]
BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 81N-0139]

Gentamicin Sulfate Injection; Oligosaccharide Antibiotic Drugs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations to provide for the certification of a new strength of gentamicin sulfate injection. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 12, 1981; comments, notice of participation, and request for hearing by July 13, 1981; data, information and analyses to justify a hearing by August 11, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new strength (1.0 milligram per milliliter (mg/mL)) of gentamicin sulfate injection. The agency concludes that the data supplied by the manufacturer concerning this antibiotic drug product are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 444 (21 CFR Part 444) to provide for its certification. Consistent with this amendment, Part 444 is amended in § 444.220(b)(4) by redesignating the intrathecal product as the 2.0 mg/mL strength of gentamicin sulfate injection for the sake of uniformity.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 444 is amended in § 444.220 by revising paragraphs (a)(1) and (3)(ii)(*b*)(*1*) and (b)(4) to read as follows:

§ 444.220 Gentamicin sulfate injection.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Gentamicin sulfate injection is an aqueous solution of gentamicin sulfate with or without one or more suitable buffers, sequestering agents, tonicity agents, or preservatives. Each milliliter contains gentamicin sulfate equivalent to either 1.0 milligram, 2.0 milligrams, 10.0 milligrams, or 40.0 milligrams of gentamicin. Its potency is satisfactory if it contains not less than 90 percent nor more than 125 percent of the number of milligrams of gentamicin that it is represented to contain. It is sterile. It passes the safety test. It is nonpyrogenic. Its pH is not less than 3.0 nor more than 5.5. The gentamicin sulfate used conforms to the standards prescribed by § 444.20(a)(1).

* * * * *

(3) * * *

(ii) * * *

(*b*) * * *

(*1*) For all tests except sterility: A minimum of 40 containers if each milliliter contains the equivalent of 2.0 milligrams or 10.0 milligrams of gentamicin; a minimum of 12 containers if each milliliter contains the equivalent of 40.0 milligrams of gentamicin; or, a minimum of 10 containers if each milliliter contains the equivalent of 1.0 milligram of gentamicin.

* * * * *

(b) * * *

(4) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 10.0 milligrams of gentamicin per milliliter, except:

(i) If the product contains 2 milligrams of gentamicin per milliliter, inject 5 milliliters per kilogram of the undiluted solution; or

(ii) If the product contains 1 milligram of gentamicin per milliliter, inject 10.0 milliliters per kilogram of the undiluted solution.

* * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective upon the date of publication in the **Federal Register.** However, interested persons may, on or before July 13, 1981, submit written comments on this rule to the Dockets Management Branch (address above). Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before July 13, 1981, a written notice of participation and request for hearing, and (2) on or before August 11, 1981, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order must be filed in four copies, identified with the docket number appearing in the heading of this order and filed with the

Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective June 12, 1981.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: June 1, 1981.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 81-17115 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Dichlorophene and Toluene Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations for dichlorophene and toluene capsules to reflect the change of sponsor from Tutag Laboratories to Reid-Provident Laboratories. In a subsequent amendment, the change of sponsor was inadvertently omitted. This document reinstates the change of sponsor reflected in the earlier amendment.

EFFECTIVE DATE: January 6, 1981.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 6, 1981 (46 FR 1261), FDA amended 21 CFR 520.580(b)(2) to change the sponsor of NADA 102–673 from Tutag Laboratories to Reid-Provident Laboratories. In a subsequent amendment to that regulation (approval of K. C. Pharmacal's NADA 120–671, published in the **Federal Register** of March 27, 1981, 46 FR 18961), the change of sponsor of January 6 was not included. This document reinstates the change of sponsor.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.580 *Dichlorophene and toluene capsules* are amended in paragraph (b)(2) by removing No. "000124" and inserting in its place No. "000063".

§ 520.580 [Amended]

Effective date. January 6, 1981.

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

Dated: June 4, 1981.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 81-17253 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Phenylbutazone Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amended the animal drug regulations for several new animal drugs to reflect that Burroughs Wellcome Co. has combined its two veterinary divisions into Wellcome Animal Health Division. In a subsequent amendment, the change of sponsor was inadvertently omitted. This document reinstates the change of sponsor reflected in the earlier amendment.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 3, 1981 (46 FR 10463), FDA amended 21 CFR 520.1720b(b) to change the sponsor of several oral and injectable new animal drugs for Wellcome Veterinary Division and Jensen-Salsbery Laboratories, both divisions of Burroughs Wellcome Co., to Wellcome Animal Health Division. In a subsequent amendment to that regulation (approval of Sterivet Lab's NADA 113–510, published in the **Federal Register** of March 27, 1981, 46 FR 18960), the change of sponsor of February 3 was not included. This document reinstates the change of sponsor.

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

§ 520.1720b [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1720b *Phenylbutazone granules* is amended in paragraph (b) by removing No. "017220" and inserting in its place No. "000081".

Effective date. February 3, 1981.

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

Dated: June 4, 1981.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 81-17254 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket H–112C]

Access to Employee Exposure and Medical Records; Construction Industry; Extension of the Comment Period

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of the deadline for submission of comments and information.

SUMMARY: On May 21, 1980, the Occupational Safety and Health Administration (OSHA) promulgated an occupational health standard on Access to Employee Exposure and Medical Records (29 CFR 1910.20; 45 FR 35212 *et seq.*). This standard applied to employers in general industry, maritime and construction. On April 28, 1981, OSHA stayed § 1910.20 with respect to the contract construction industry, the terms, of which may be found at 46 FR 23740. It also announced its intention to submit the entire issue of records access in the contract construction industry to the Advisory Committee on Construction Safety and Health. In addition, the notice solicited public comment on whether the standard should continue to be stayed pending the Advisory Committee's deliberations and the outcome of any rulemaking process which the Secretary may determine is warranted. OSHA

requested that written comments on continuance of the administrative stay be submitted by June 12, 1981.

The Construction Advisory Committee is scheduled to meet in Washington, D.C., on June 10, 11, and 12, at 9:00 a.m. in Room N–5437, Frances Perkins Department of Labor Building. The issue of records access is among the items on the agenda for discussion. An extension of the comment period would allow interested parties to comment on any specific matters which may be raised at the Advisory Committee meetings. Therefore, the written comment period is extended to June 26, 1981.

DATE: Written comments on the continuance of the stay must be postmarked by June 26, 1981.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. H–112C, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Department of Labor, OSHA, Office of Public Affairs, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8151.

Signed at Washington, D.C., this 4th day of June 1981.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 81-17445 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-26-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Reduction of Aid and Attendance Allowance During Hospitalization

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration has amended its regulation governing reduction of the aid and attendance allowance to a veteran hospitalized by the Veterans Administration. The need for this action resulted from lack of specificity in the regulation concerning the effective date of reduction of the aid and attendance allowance when this benefit is first granted during hospitalization. The regulation formerly provided aid and attendance reduction rules only for a veteran already in receipt of the aid and attendance allowance at the time of hospital admission.

EFFECTIVE DATE: May 26, 1981.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle (202–389–3005).

SUPPLEMENTARY INFORMATION: On pages 19002–03 of the Federal Register of March 27, 1981, the Veterans Administration published a proposed amendment to 38 CFR 3.552. Interested persons were given until April 27, 1981 to submit comments, objections or suggestions to the proposal. The Veterans Administration did not receive any and, consequently, the proposed amendment to 38 CFR 3.552 has been adopted without change.

The Veterans Administration has determined that this regulation is nonmajor in accordance with Executive Order 12291, Federal Regulation. The Veterans Administration has also determined, as required by Pub. L. 96–354, the Regulatory Flexibility Act, that it imposes no compliance costs or reporting burdens on the public and has no effect on businesses or State and local governments.

Approved: May 26, 1981.

Rufus H. Wilson,

Acting Administrator.

In § 3.552, paragraphs (a)(1) and (b)(3) are revised and paragraph (k) is added so that the added and revised material reads as follows:

§ 3.552 Adjustment of allowance for aid and attendance.

(a)(1) When a veteran who is already entitled to the aid and attendance allowance is hospitalized, the additional compensation or increased pension for aid and attendance shall be discontinued as provided in paragraph (b) of this section except as to disabilities specified in paragraph (a)(2) of this section. (See paragraph (k) of this section for rules applicable to a veteran who establishes entitlement to the aid and attendance allowance on or after date of admission to hospitalization).

* * * * *

(b) * * *

(3) Where a veteran affected by the provisions of paragraph (b) (1) and (2) or paragraph (k) of this section is discharged or released from the hospital against medical advice or as the result of disciplinary action, and is readmitted to such hospitalization within 6 months after that date, the allowance, additional compensation, or increased pension will be discontinued effective the day preceding the date of readmission. A readmission 6 months or more after such discharge or release will be considered as a new admission. (38 U.S.C. 3203(e)).

* * * * *

(k)(1) This paragraph is applicable to hospitalized veterans who were not entitled to the aid and attendance allowance prior to hospital admission but who establish entitlement to it on or after the date of hospital admission.

(2) If the effective date of entitlement to the aid and attendance allowance is on or after the date of admission to hospitalization, the aid and attendance allowance shall not be paid until the date of discharge or release from hospitalization, unless the aid and attendance allowance is based on a disability specified in paragraph (a)(2) of this section. If the aid and attendance allowance is based on a disability specified in paragraph (a)(2) of this section, the aid and attendance allowance shall be paid during hospitalization.

(3) If the aid and attendance allowance is not payable to a veteran under paragraph (k)(2) of this section, the veteran shall receive the appropriate reduced rate under paragraphs (d) through (j) of this section while hospitalized.

[FR Doc. 81-17459 Filed 6-11-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1827-2]

Approval and Promulgation of Implementation Plans: State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979 to include a permit program for new and modified major stationary sources of air pollutants. On May 9, 1980, EPA conditionally approved Missouri's permitting regulations. On April 7, 1981, the state submitted a revision to the regulations for the purpose of fulfilling one of these conditions.

The purpose of this notice is to advise the public that EPA is taking final action to approve the state's regulatory change and is incorporating it into the approved SIP. The applicable condition is being removed. Until all conditions are met, conditional approval of the SIP will continue.

EFFECTIVE DATE: This promulgation is

effective July 13, 1981.

ADDRESSES: Copies of the state submission and the EPA prepared rationale document are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Room 2922, Washington, D.C. 20460;

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101.

A copy of the state submission is also available at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791 (FTS) 758-3791.

SUPPLEMENTARY INFORMATION: On May 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Sections 172(b)(6), 172(b)(11)(A) and 173 of the Clean Air Act, as amended (45 FR 30626). These sections require states to establish in the SIP a permit program for new and modified sources of air pollutants in areas where the air quality is worse than the national standards. Missouri's program, as outlined in Rule 10 CSR 10-6.060, Permits Required, and in Rule 10 CSR 10-6.020, Definitions, contained minor deficiencies resulting in EPA's conditional approval on May 9, 1980. The state agreed to correct these deficiencies by certain deadlines.

One of the conditions promulgated by EPA required the state to change the requirements for permitting modifications to Class C sources (major sources in nonattainment areas) to be applicable both to a modification to a single source operation and to two or more source operations which result in an increase in potential emissions greater than certain levels (de minimus) specified in the regulation. This change was to be submitted to EPA by January 1, 1981.

On December 1, 1980, the state published in the *Missouri Register* a proposed change to Rule 10 CSR 10-6.060 for the purpose of fulfilling this condition. This proposed revision was received by EPA on December 22, 1980. A notice of receipt of the proposed change was published on January 8, 1981 (46 FR 2043).

On February 18, 1981, the Missouri Air Conservation Commission adopted, without modification, the proposed changes to Rule 10 CSR 10-6.060. The state submitted it to EPA as a SIP revision on April 7, 1981. EPA has reviewed the state's submission and finds that the condition on its approval has been fully met. Therefore, EPA is incorporating the regulatory changes into the SIP and is removing the applicable condition. This action also serves to continue EPA's conditional approval of the SIP until all conditions have been met.

EPA finds that further notice and comment on this issue are unnecessary. The corrective action was clearly identified in EPA's promulgation and the state's submittal clearly addresses the specified criteria for approval.

Pursuant to the provisions of 5 U.S.C. § 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions, and imposes no additional substantive requirements.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

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

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: June 7, 1981.

Anne M. Gorsuch,

Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart AA—Missouri

1. 40 CFR Part 52 is amended by revising § 52.1320(c)(18) and by adding a new § 52.1320(c)(28) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(18) * * * Included in the plan are Missouri regulations 10 CSR 10-6.020 Definitions and 10 CSR 10-6.060 Permits Required, which are approved as meeting the requirements of Sections 172(b)(6), 172(b)(11)(A), and 173.

* * * * *

(28) Revisions to Rule 10 CSR 10-6.060 Permits Required, submitted on April 7, 1981.

§ 52.1324 [Amended]

2. Section 52.1324 is amended by removing paragraph (c)(3) and (c)(3)(ii).

[FR Doc. 81-17526 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1842-4]

Ohio; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: On December 12, 1980 (45 FR 81792), the U.S. Environmental Protection Agency (EPA) proposed approval of and solicited public comment on a revision to the Federally promulgated Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) as it applies to the Harshaw Chemical Company's Harvard-Denison plant in Cleveland, Ohio. No public comments were received. This notice announces EPA's final approval of the revision to the Ohio SIP.

EFFECTIVE DATE: This final rulemaking becomes effective on July 13, 1981.

ADDRESSES: The docket (Number 5A-80-13) for this revision is available for inspection and copying during normal business hours at the above address and at the Central Docket Section, West Tower Lobby, Gallery 1, 401 M. Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6053.

SUPPLEMENTARY INFORMATION: On August 27, 1976 (41 FR 36324), EPA promulgated regulations establishing the SIP for control of SO2 for the State of Ohio. The regulations for Cuyahoga County were amended on November 30, 1976 (43 FR 52455). The three oil-fired boilers at Harshaw Chemical Company's Harvard-Denison plant in Cleveland were given a boiler emission limitation of 0.50 lb. per million BTU. The emission limitation was based on detailed site-specific RAM-urban modeling.

On July 12, 1979, the Harshaw Chemical Company petitioned EPA for a revision of the Ohio SIP for SO2 as it applies to the boiler emissions at its Harvard-Denison plant. Harshaw requests that its boiler emission limit be raised to 1.00 lb. per million BTU to permit the use of residual oil as a boiler fuel.

To support the revision, Harshaw submitted technical documentation demonstrating that the proposed revision does not substantially alter Harshaw's interaction with the other sources in the nonattainment area. To supplement the Harshaw modeling, EPA performed an analysis of the Harshaw source itself to determine the effect of the proposed revision on the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). EPA's analysis demonstrated that the proposed revision will not cause a violation of the 3-hour secondary standard. Harshaw's analysis showed that the revision would protect the annual primary standard. With regard to the 24-hour primary standard, the Harshaw modeling and EPA modeling were combined to show that the revision will protect the 24-hour standard.

Since the operation of Harshaw Chemical Company's Harvard-Denison plant at the proposed SO2 emission limit of 1.00 lb. per million BTU will not threaten or prevent the attainment and maintenance of the SO2 National Ambient Air Quality Standards, EPA proposed to approve this revision to the Ohio SO2 SIP on December 12, 1980 (45 FR 81792).

Interested parties were given until January 12, 1981 to comment on this revision. No public comments were received. This notice announces EPA's final rulemaking action to approve this revision to the Ohio SO2 SIP. Thus, the boiler emission limit at Harshaw Chemical Company's Harvard-Denison plant will be 1.00 lb. per million BTU.

Under Executive Order 12291 EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it only impact Harshaw Chemical Company and it approves a revised emission limitation requested by the Company. The revised emission limitation will allow the Company to use residual oil.

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

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of date of final rulemaking. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This Notice of Final Rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410), as amended.

Dated: June 7, 1981.

Anne M. Gorsuch,

Administrator.

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

Subpart KK—Ohio

1. Section 52.1881(b)(23)(vi) is amended by adding new paragraph (F).

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(23) In Cuyahoga County, * * *

* * * * *

(vi) * * *

(F) Harshaw Chemical	7, 8, and 9.

2. Section 52.1881(b)(23)(vii) is revised to read as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio.

* * * * *

(23) In Cuyahoga County, * * *

* * * * *

(vii) No present of subsequent owner or operator of the fossil fuel-fired steam generating units listed herein shall cause or permit the emission of sulfur dioxide from any stack attached to the identified boilers in excess of 0.50 pounds of sulfur dioxide per million BTU of actual heat input:

Company	Boiler identification
(A) Jones & Laughlin Steel	22, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35.
(B) U.S. Steel, Cuyahoga-Lorain works.	1, 2, 3, 4, 5, and 6.
(C) DuPont	18.
(D) Standard Oil of Ohio	7, 9, and 10.

[FR Doc. 81-17529 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 81

[A-6-FRL-1842-6]

State of Oklahoma: Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the Oklahoma State Department of Health's redesignation request to change the existing nonattainment designation for ozone for Cleveland County to attainment. This action is taken based upon the State's request to revise its original designation of the Cleveland area. The intended effect will provide for more efficient and effective air quality management.

EFFECTIVE DATE: June 12, 1981.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L St., N.W., Washington, D.C., Rm. 8401;

Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 "M" Street, S.W., Washington, D.C., Rm. 2922.

FOR FURTHER INFORMATION CONTACT: Estela S. Wackerbarth, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: The Oklahoma State Department of Health submitted to EPA on December 17, 1979, their redesignation request to change the existing nonattainment designation for ozone for Cleveland County to attainment.

EPA reviewed the redesignation request and on September 8, 1980 at 45 FR 59179, EPA published a notice of proposed rulemaking and solicited

public comment. No comments were received, therefore, EPA is redesignating the Cleveland County area from nonattainment to attainment.

EPA finds that good cause exists for making this action immediately effective. The redesignation of an area from nonattainment to attainment relieves the state of the necessity to develop, submit and obtain EPA approval of an implementation plan designed to demonstrate attainment of the standard. Relief from this requirement is a benefit which should be made available to the State and its citizens as soon as possible.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it is merely approving a State action. It will impose no new regulatory action.

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

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking notice is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before August 11, 1981. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

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

This notice of final rulemaking is issued under the authority of Section 107(d) of the Clean Air Act, as amended, 42 U.S.C. 7407(d).

Dated: June 7, 1981.

Anne M. Gorsuch,

Administrator.

Subpart C of Part 81 of Chapter 1, Title 40 of the Code of Federal Regulation is amended as follows:

§ 81.337 [Amended]

1. In § 81.337—Oklahoma, the attainment status designation table for ozone is amended by revising the designation for Cleveland County from "does not meet primary standards" to "cannot be classified or better than national standards". The amended portion of the O_x table for § 81.337 reads as set forth below:

Oklahoma—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
AQCR 184:		
Oklahoma Co	X	
Cleveland Co		X
Remainder of AQCR		X
* * * * *		

[FR Doc. 81-17528 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PP OE2372/R317; PN-FRL-1852-3]

Chlorpyrifos; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide chlorpyrifos in or on the raw agricultural commodity mint hay at 1.0 part per million (ppm). This regulation was requested by the Interregional Research Project No. 4 (IR-4). This regulation will establish the maximum permissible level for residues of chlorpyrifos in or on mint hay at 1.0 part per million.

EFFECTIVE DATE: Effective on June 12, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of March 4, 1981 (46 FR 15181) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition EO2372 to EPA on behalf of the IR-4 Technical Committees and the Agricultural Experiment Stations of Oregon and Washington. The petition proposed that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity mint hay at 1.0 part per million (ppm).

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 13, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3706, (A-110), 401 M St. SW., Washington, DC 20460. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that the regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on June 12, 1981.

(Sec. 408(e), 68 Stat. 514, 21 U.S.C. 346a(e))

Dated: June 4, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically adding the raw agricultural commodity "mint hay" in the table under § 180.342 to read as follows:

§ 180.342 **Chlorpyrifos; tolerance for residues.**

* * * * *

Commodities	Parts per million
* * * * *	
Mint hay	1.0
* * * * *	

[FR Doc. 81-17524 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 9E2225/R318-PH-FRL-1852-1]

Ethephon; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the plant growth regulator ethephon. This regulation was requested by the Interregional Research Project No. 4 (IR-4). This regulation will establish the maximum permissible level for residues of ethephon on cucumbers at 0.1 part per million (ppm).

EFFECTIVE DATE: Effective on June 12, 1981.

ADDRESS: Written objections may be submitted to the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of March 4, 1981 (46 FR 15182) that the Interregional Research Project No. 4 (IR-4) had submitted a petition (PP 9E2225) to the EPA. The petition proposed that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the plant growth regulator ethephon [(2-chloroethyl) phosphonic acid] in or on the raw agricultural commodity cucumbers at 0.1 part per million (ppm).

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance will protect the public health. Therefore, the regulation is established as set forth below.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that the regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on June 12, 1981.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: June 4, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, 40 CFR 180.300 is revised to read as follows:

§ 180.300 **Ethephon; tolerances for residues.**

Tolerances are established for residues of the plant regulator ethephon [(2-chloroethyl) phosphonic acid] in or on raw agricultural commodities as follows:

Commodity	Parts per million
Apples	5
Blackberries	30
Blueberries	20
Cantaloupes	2
Cherries	10
Coffee beans	0.1(N)
Cranberries	5
Cucumbers	0.1
Figs	5
Filberts	0.5
Lemons	2
Peppers	30
Pineapples	2
Pineapple fodder	3
Pinapple forage	3
Tangerines	0.5
Tangerine hybrids	0.5
Tomatoes	2
Walnuts	0.5

[FR Doc. 81-17520 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 81 and 83

Stations on Land in the Maritime Services and Alaska—Public Fixed Stations and Stations on Shipboard in the Maritime Services; Editorial Amendments Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule, correction.

SUMMARY: This document restores rule language inadvertently omitted by Order released March 17, 1981, which revised rules concerning the maritime mobile service which was published in the Federal Register on March 27, 1981 (46 FR 18982). This action is necessary to correct those omissions.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of Editorial amendment of Parts 81 and 83 of the FCC Rules and Regulations. Corrections.

Released: June 4, 1981.

1. By Order released March 17, 1981 which was published in the Federal Register on March 27, 1981 (46 FR 18982), the Executive Director, acting under the authority delegated to him by Section 0.231(d) of the rules, made numerous editorial amendments to Parts 81 and 83 of the Commission's rules.

2. Through inadvertence or by operation of release dates, certain of these editorial amendments had the effect of deleting current rule language. The purpose of this Errata is to restore the current language.

3. In accordance with the attached Appendix, §§ 83.155(d) and 83.156(b)(3) are corrected to restore the language adopted in the Third Report and Order in Docket 20817, released August 7, 1980, FCC 80-416, 45 FR 52154. Sections 81.133(a) and 83.133(a) are corrected to restore the classes of emission and footnotes adopted in the Report and Order in General Docket 80-1, released March 11, 1981, FCC 81-24, 46 FR 15690.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

The following corrections are made in Federal Register Doc 81-9324 appearing on page 18982 in the issue of March 27, 1981:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. On page 18982, column three, in § 81.133, the table following paragraph (a) is corrected by the addition of emission 16F1 immediately following emission designator 6 A3, emission 16F4 immediately following emission designator [2] 16F3, and footnotes 5 and 6 to read as follows:

§ 81.133 Authorized bandwidth.

(a) * * *

Class of station emission	Emission designator	Authorized bandwidth (kHz)
* * * * *		
F1	16F1	[5]20
* * * * *		
F4	16F4	[6]20
* * * * *		

[1] * * *
[2] * * *
[3] * * *
[4] * * *
[5] Radioteletypewriter in the band 216-220 MHz.
[6] Facsimile in the band 216-220 MHz.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. On page 18983, column one, in § 83.133, the table following paragraph (a) is corrected by the addition of emission 16F1 immediately following emission designator 0.3F1 [1], emission 16F4 immediately following emission designator 16F3 [2], and footnotes 7 and 8 to read as follows:

§ 83.133 Authorized bandwidth.

(a) * * *

Classes of emission	Emission designator	Authorized bandwidth (kilohertz)
* * * * *		
F1	16F1	20.0[7].
* * * * *		
F4	16F4	20.0[8].
* * * * *		

[7] Radioteletypewriter in the band 216-220 MHz.
[8] Facsimile in the band 216-220 MHz.

2. On page 18983, in column two, in § 83.155, paragraph (d) is corrected to read as follows:

§ 83.155 Operator(s) required by Title III of Communications Act of 1934.

* * * * *

(d) Each cargo ship of the United States which, in accordance with Part II of Title III of the Communications Act, is equipped with a radiotelephone station shall for distress and safety purposes carry at least one qualified operator. Where the power of the station does not exceed 1500 watts peak envelope power for A3A, A3H and A3J emissions such operator shall hold a Marine Radio Operator Permit, a Radiotelephone Third Class Operator Permit, or higher class of operator authorization. Where the power of the station exceeds 1500 watts peak envelope power for A3A, A3H and A3J emissions, such operator shall, as a minimum, hold a Radiotelephone Second Class Operator License.

* * * * *

3. On page 18983, in column three, in § 83.156(b)(3) is corrected to read as follows:

§ 83.156 Operator(s) required by the Safety Convention.

* * * * *

(b) * * *

(3) Where the power of the station does not exceed 1500 watts peak envelope power for A3A, A3H and A3J emissions such operator shall hold a Marine Radio Operator Permit, a Radiotelephone Third Class Operator Permit, or a higher class of operator authorization. Where the power of the station exceeds 1500 watts peak envelope power for A3A, A3H and A3J emissions such operator shall, as a minimum, hold a Radiotelephone Second Class Operator License.

[FR Doc. 81-17458 Filed 6-11-81; 8:45 am]
BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1003

[Ex Parte No. MC-153]

Motor Carrier and Broker Forms

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Forms B.M.C. 15 and 15-A (Revised), which once served to notify interested parties that an application for authority had been filed, are eliminated. Form BOp 106, Quarterly report of Split and Divided Shipments of Household Goods, is also deleted. Form BOp 102 is redesignated as Form OCP 102, Notice to Commission of Intent to Perform Interstate Transportation for Certain Nonmembers Under 49 U.S.C. 10526(a)(5). These amendments are due to Commission reorganization and change.

EFFECTIVE DATE: June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Phyllis Gunn (202) 275-7475.

SUPPLEMENTARY INFORMATION: Forms B.M.C. 15 and B.M.C. 15-A (Revised) once served to notify competitors, State regulatory bodies, and other interested parties that an application had been filed with the Commission for permanent operating authority (B.M.C. 15) or to consolidate, merge, purchase, lease or control the operating rights or properties of a motor carrier under 49 U.S.C. 11343-11344 (B.M.C. 15-A Revised). Because notice of an application filing is given to all interested parties through publication in the **Federal Register**, these forms are obsolete and will be deleted from 49 CFR 1003.

On August 14, 1975, in 40 FR 34119, Section 1056, Title 49 of the *Code of Federal Regulations*, was modified to eliminate the Quarterly Report of Split or Divided Shipments of Household Goods, Form BOp 106. At that time, the amendments failed to include deletion of Form BOp 106 from Section 1003.

Due to the reorganization of the Bureau of Operations into the Office of Consumer Protection, Form BOp 102 will be redesignated as Form OCP 102. The new form designation was approved by the General Accounting Office on February 12, 1981, including the reference changes in the title due to the recodification of the Interstate Commerce Act.

Since these changes concern agency practice and procedure, and will have no substantial impact on the public, these final rules are being adopted without prior notice or public comment.

This action does not affect the quality of the human environment or the conservation of energy resources. Small business and small organizations will not experience adverse economic impact from these rules.

Part 1003, Subtitle B, Chapter X of title 49 of the *Code of Federal Regulations*, is amended as follows:

§ 1003.1 [Amended]

1. Section 1003.1 is amended by removing the following form references:

B.M.C. 15

Notice of filing of application for operating authority or exemption, and of designation of agent for service of notices or orders.

B.M.C. 15-A (Revised)

Notice of filing of application for authority under Sections 5 and 210a(b), Interstate Commerce Act.

Cross Reference: Part 1134 of this chapter.

BOp 106

Quarterly Report of Split or Divided Shipments of Household Goods

2. Section 1003.1 is amended by revising the reference to "BOp 102 * * *" to the following:

OCP 102

Notice to the Commission of Intent to Perform Interstate Transportation for Certain Nonmembers Under 49 U.S.C. 10526(a)(5), to be used by cooperative associations or federations of cooperative associations which intend to perform interstate transportation for nonmembers who are neither farmers, other cooperative associations, nor federations of cooperative associations.

(49 U.S.C. 10526(a)(5) and 10529)

Cross Reference: Section 1047.20 of this chapter.

(49 U.S.C. 10321 and 5 U.S.C. 553)

Decided: June 3, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17439 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 113
Friday, June 12, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Semiannual Agenda of Regulations

AGENCY: Office of Personnel Management.

ACTION: Notice of delay in publication date of regulatory agenda.

SUMMARY: E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act require publication of semiannual agenda in April and October of each year. Because of the need for additional time to apply the new criteria to OPM regulations under review or development, the Office of Personnel Management's (OPM) first semiannual agenda under the new requirements will be published in June 1981. Thereafter, agenda will be published in October and April of each year.

FOR FURTHER INFORMATION CONTACT:

Beverly McCain Jones, Issuance System Manager, (202) 254–7086.

SUPPLEMENTARY INFORMATION: OPM publishes a semiannual agenda on December 2, 1980 (45 FR 79846), and a delay notice on April 28, 1981 (46 FR 23751). The Director has requested that an additional review of the agenda be made to be sure all items reflect the Administration's desire to reduce the number of regulations issued to the absolute minimum necessary to carry on personnel management functions in the civil service.

Office of Personnel Management.

Beverly McCain Jones,

Issuance System Manager.

[FR Doc. 81-17169 Filed 6-11-81; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 332 and 337

Proposed Exemption From Provisions Prohibiting a Bank From Guaranteeing or Acting as Surety for the Obligations of Others

AGENCY: Federal Deposit Insurance Corporation

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") proposes to amend its regulation which prohibits an insured nonmember bank from guaranteeing the obligations of third parties. The amendment is in the form of an exemption and is designed to allow banks to do two things: (1) To sponsor credit card agreements with other banks and (2) to issue check-guarantee cards. A number of banks have asked that the present restrictions exclude check-guarantee cards and customer-sponsored credit card accounts.

The proposed amendment would allow banks to enter into such undertakings as long as they meet certain criteria pertaining to safety and soundness. The language of the proposed amendment is broad enough to include arrangements that have similar characteristics, but have been termed differently.

DATE: Comments must be submitted on or before August 11, 1981.

ADDRESS: Comments may be mailed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th St. NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT:

W. Randolph Torres, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th St. NW., Washington, D.C. 20429, (202) 389–4384.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to allow insured nonmember banks to engage in certain practices which are technically in violation of the FDIC's regulations. The FDIC has in mind two specific practices, although the exemption is broad enough to include other arrangements of a similar nature.

The first practice involves so-called check-guarantee card programs. These programs can be created by banks, or they can purchase the program through a marketing agreement with an independent company. If the bank purchases the program from an independent company, it will pay a "membership fee". Regardless of which program the bank chooses, its characteristics are basically the same. The customer must fill out an application for the card. If the applicant wants to obtain an overdraft option together with the card, he/she must fill out a credit application. This is an option, however, and is *not* a feature of the check-guarantee program itself. In some programs, the card can also be used to operate automatic teller machines which allow the customer to withdraw and/or deposit cash in his/her account.

Although various programs have been developed by different banks, these programs have similar characteristics. The card may or may not have a photograph of the customer. The agreements usually require, however, that the guaranteed check be personalized with the *cardholder's* name. The check must be from the bank that issues the card. The customer's signature, the card's date of expiration, verification instructions, and amount limit for the checks are printed on the card. The merchant is required to verify that all the requirements are met before he/she accepts the check.

The banks that use the system contend that the card serves only as a form of customer identification. The retailer to whom the card is presented, however, has a legal right to rely on the bank's assurance that the customer has sufficient funds to cover his/her check. The arrangement typically guarantees checks for amounts between $100 and $200.

The FDIC is of the opinion that these "guarantees" of customer credit are either prohibited outright by 12 CFR 331.1(d) which enjoins a bank from guaranteeing or becoming a surety upon the obligation of others or, at the very least, are similar in nature to standby letters of credit and are subject to the restrictions of 12 CFR 337.2. These "guarantees", however, represent small risk to the safety and soundness of the bank. The low maximum limits on the

card make it fairly difficult for a cardholder to write enough checks to amass large amounts of debt. The verification procedure required by the proposed exemption should minimize even this risk.

The second practice is the customer-sponsored credit card account. In this type of arrangement, a bank issues a credit card to a customer of the sponsoring bank. The sponsoring bank in turn assumes all the responsibility in case of a default by the cardholder. The sponsoring bank lends its credit rating to its customers while the correspondent bank does the billing and receives the interest. Once the card is issued, there is no difference between it and other bank credit cards. This practice violates 12 CFR 332.1(d).

One of the problems with customer-sponsored credit card accounts is that neither the sponsoring bank nor the issuing bank may have performed a credit investigation of the applicants. Failure to screen an applicant before issuing a card and lack of a verification system could expose the sponsoring bank to an unnecessarily high degree of risk. The exemption attempts to minimize this exposure by requiring credit checks on each applicant and verification of the transaction at the point of sale.

The FDIC is aware that both types of practices are in limited use throughout the country, but has not been able to assess what, if any, industry standards apply to their operation. Although the criteria in the exemption are believed necessary for safety and soundness reasons, they may add to the costs of compliance in the case of banks which do not already have similar standards for their programs. While the FDIC believes that most banks with check-guarantee or customer-sponsored credit card programs do have similar standards, the question of compliance cost is one on which public comment is desirable. There may be alternate less costly criteria which would be just as effective. There may be no need for certain criteria. The FDIC, therefore, invites comments on these issues.

The FDIC certifies that this amendment will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory-flexibility analysis is not required. Currently, banks that offer these programs must comply with the disclosure requirements of § 337.2(d). The amendment would exempt banks from these disclosures, thus reducing their costs. Banks that already offer these programs are not required to make or keep new disclosures or records. Banks that decide to offer these services may set up the accounting systems best suited to their needs.

The effects of this amendment on competition will be positive. Small banks which do not have the resources to offer credit cards to their customers will be able to do so through the customer-sponsored credit card account. This will enable them to compete with larger banks that can and do issue credit cards.

Consumers should benefit from this proposed amendment because check-guarantee card arrangements will make it easier for them to purchase goods with their checks. The customer-sponsored credit card accounts will allow some bank customers access to credit cards without forcing them to change their other banking relationships.

The FDIC believes that the regulation will not have a significant adverse effect on a substantial number of small entities. This view, however, is based on the nature of the amendment, the assumption that most banks have standards for their programs that are similar to those proposed by the FDIC, and, the limited amount of information available on programs conducted by small banks.

Alternatives to the amendment are (1) to enforce the regulations and force insured nonmember banks to either modify or dismantle their existing programs; or (2) to maintain the status quo, allowing at least some nonmember banks to continue practices that do not conform to FDIC regulations.

The former alternative is costly and impractical in view of the widespread use of these arrangements and the limited risks involved. The latter alternative is not acceptable because both types of undertakings fall within the regulatory prohibitions. For this reason a policy statement could not be used to accomplish the same result.

PART 332—POWERS INCONSISTENT WITH PURPOSES OF FEDERAL DEPOSIT INSURANCE LAW

12 CFR Part 332 is amended as follows:

1. The authority citation for Part 332 reads as follows:

Authority: Secs. 6, 9, 64 Stat. 876, 881; 12 U.S.C. 1816, 1819.

2. A new § 332.3 is added to read as follows:

§ 332.3 Exemption.

Check-guarantee card programs, customer-sponsored credit card programs, and similar arrangements in which a bank undertakes, on a limited basis, to guarantee the obligations of a specific class of individuals with whom the bank has an ongoing business relationship are exempted from § 332.1 and § 337.2 of this subchapter: *Provided, however,* That the bank performs a credit check of the individual before undertaking to guarantee his/her obligations; that the accepting party at the point of sale is required to verify beforehand any transaction of $100 or more in the case of personal checks, or an established contractual limit in the case of credit card and other obligations; that the bank limit an individual's outstanding obligations to no more than $1,000; and that any such arrangement to which a bank's principal shareholders, directors, or executive officers are a party be in compliance with Federal Reserve Regulation O (12 CFR Part 215).

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

12 CFR Part 337 is amended as follows:

1. The authority citation for Part 337 reads as follows:

Authority: Sec. 9, 64 Stat. 881–882; 12 U.S.C. 1819.

2. A new § 337.3 is added to read as follows:

§ 337.3 Exemption.

Check-guarantee card programs, customer-sponsored credit card programs, and similar arrangements in which a bank undertakes, on a limited basis, to guarantee the obligations of a specific class of individuals with whom the bank has an ongoing business relationship are exempted from §§ 332.1 and 337.2 of this subchapter: *Provided, however,* That the bank performs a credit check of the individual before undertaking to guarantee his/her obligations; that the accepting party at the point of sale is required to verify beforehand any transaction of $100 or more in the case of personal checks, or an established contractual limit in the case of credit card and other obligations; that the bank limit an individual's outstanding obligations to no more than $1,000 and that any such arrangement to which a bank's principal shareholders, directors, or executive officers are a party be in compliance with Federal Reserve Regulation O (12 CFR Part 215).

§§ 337.4–337.9 [Reserved]

By order of the Board of Directors dated June 8, 1981.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 81-17531 Filed 6-11-81; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 180 and 182

[Docket No. 80N-0418]

Caffeine; Deletion of Gras Status, Proposed Declaration That no Prior Sanction Exists, and Use on an Interim Basis Pending Additional Study; Availability of Information

AGENCY: Food and Drug Administration.

ACTION: Notice of availability of information on proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of reports and protocols on "Blood Levels of Radioactivity Following Oral Dosing of Pregnant Rats with Radiolabeled Caffeine" and on "Mortality Associated with Multiple Gavage Administration of Caffeine Solution to Pregnant Rats." The reports contain information pertinent to the agency's review of the safety of added caffeine and are being made available in accord with an FDA Federal Register notice.

DATE: Comments must be received on or before July 29, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 21, 1980 (45 FR 69817), FDA proposed to delete caffeine used as an added food ingredient from the list of substances that are generally recognized as safe (GRAS), to declare that no prior sanction exists for the use of caffeine as an added food ingredient, to restrict the use of caffeine as an added food ingredient to current uses and levels, and to require that the presence of caffeine as an added ingredient be reflected on the product label in the ingredient declaration. In the Federal Register of March 27, 1981 (46 FR 18996), FDA extended the period during which comments on the proposal will be accepted to July 29, 1981. In the extension notice, the agency stated that new evidence bearing on the safety of added caffeine would be placed on file shortly and that the significance of this evidence with respect to the proposed rule would be described. This availability notice announces that reports entitled "Blood Levels of Radioactivity Following Oral Dosing of Pregnant Rats with Radiolabeled Caffeine" (Ref. 102) and "Mortality Associated with Multiple Gavage Administration of Caffeine Solution to Pregnant Rats," (Ref. 104) both by G. J. Ikeda, et al., Metabolism Branch, Division of Toxicology, Bureau of Foods, Food and Drug Administration, are now on file in the Dockets Management Branch under Docket Number 80N-0418. The protocols for these studies are also on file (Refs. 103 and 105, respectively).

The key findings of the rat blood level study (Ref. 102) include the following: (1) Administration of caffeine in a single bolus dose by gavage resulted in a maximum blood level of radiolabel (0.4% of dose/milliliter) two times greater than that observed when the same amount of caffeine was ingested by sipping ad libitum; (2) Coefficients of variation for radioactivity levels were much smaller when the caffeine was administered by single bolus gavage than by sipping; (3) Following administration by gavage, the plasma half life was 1.7 hours for caffeine and 2.6 hours for total radioactivity suggesting the presence of circulating metabolites which are cleared more slowly than caffeine; and (4) Levels of radioactivity in the placenta and maternal and fetal tissues were comparable following caffeine ad libitum whereas radiolabel tended to accumulate in the placenta following the single bolus gavage dose. Although germane to the issue of extrapolating to man evidence obtained in the rodent, the preliminary nature of these studies does not allow the FDA to draw any conclusions concerning their significance to human health at this time.

The principal finding in the multiple gavage study (Ref. 104) is the increase in mortality associated with the administration of a given amount of caffeine to pregnant rats in four equal doses instead of a single bolus dose. This effect has not been seen in other caffeine studies and was unexpected. The agency therefore chooses to draw no conclusions at this time with respect to the significance of this study.

FDA is currently considering several questions raised by the multiple gavage study and is presenting these questions for public comment. FDA considers these data to be preliminary and reiterates the fact that it will draw no conclusions concerning its significance to human health at this time. The agency recognizes that some of these questions might only be answered by additional studies, and suggestions for such studies also are being solicited.

1. Why does the administration of caffeine by multiple gavage increase caffeine's toxicity in pregnant rats compared to that observed using single bolus gavage?

2. To what extent is this effect dependent on the (a) dose of caffeine? (b) segmentation of a given dose? (c) route of administration? (d) species/strain of the test animal? (e) stress of pregnancy? and/or (f) stress of handling?

3. What relevance if any does this study have to human consumption of caffeine containing foods?

Interested persons may, on or before July 29, 1981, submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 8, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17434 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 373; Re: Notice No. 371]

Shenandoah Valley Viticultural Area; Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 371, Shenandoah Valley Viticultural Area, an additional 30 days. Notice No. 371 was published in the Federal Register on April 13, 1981 (46 FR 2163). Under Executive Order 12291, this proposal would not be considered a "major rule."

DATE: The comment period for Notice No. 371 is extended until July 13, 1981.

ADDRESSES: Send written comments to: Chief, Regulations and Procedures

Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Notice No. 371).

Written comments or suggestions may be inspected during normal business hours at the: ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: E. J. Ference, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 and Pennsylvania Avenue, NW, Washington, DC 20226 (202 566-7626).

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1981, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking proposing the establishment of a viticultural area in Amador County, California, to be known as "Shenandoah Valley." This proposal was the result of a petition submitted by members of the grape-growing industry. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase.

Because of the interest shown in this particular viticultural area, ATF is extending the comment period for Notice No. 371 an additional 30 days until July 13, 1981.

ATF specifically requests comments and suggestions concerning—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the areas specified in the proposal;

(b) Historical or current evidence supporting the proposed boundaries of the viticultural area as specified in Notice No. 371; and

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the proposed viticultural area from the surrounding area.

ATF requests comments concerning the proposed viticultural area from all interested persons. While ATF has proposed boundaries for the viticultural area, comments concerning other possible boundaries for the viticultural area will be considered.

The Shenandoah Valley of Virginia, for which this area of California was named, is well known. Comments concerning these two geographically designated names are also requested.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action. ATF will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing to the Deputy Director, before the close of the comment period The Deputy Director, however, reserves the right to determine in light of all circumstances whether a public hearing should be held.

Drafting Information

The principal author of this document is Thomas Minton, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This notice is issued under the authority contained in 27 U.S.C. 205.

Signed: June 8, 1981.

Stephen E. Higgins,

Deputy Director.

[FR Doc. 81-17432 Filed 6-11-81; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 272

Use of "Woodsy Owl" Symbol

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to review regulation.

SUMMARY: The Forest Service proposes to review the regulation for use of the Woodsy Owl Symbol under terms of E.O. 12291 to determine whether the regulation should be (a) abolished, (b) modified, or (c) retained in its present form.

DATES: Comments must be received on or before August 11, 1981.

ADDRESS: Send written comments to: R. Max Peterson, Chief (1600), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert A. Hartwick, Office of Information, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202/447-5060.

SUPPLEMENTARY INFORMATION: Regulation 36 CFR 272, Use of "Woodsy Owl" symbol, is being reviewed under the terms of Executive Order 12291, dated February 17, 1981. The regulation defines the Woodsy Owl symbol and sets conditions for authorizing use of Woodsy Owl. The regulation being reviewed was published in the **Federal Register**, March 20, 1975, and is reprinted below. This regulation has been reviewed against criteria in E.O. 12291, and has been determined not to be major. A regulatory analysis is not required for this rulemaking.

Summary of Existing Rule

Public Service Use

The Chief of the Forest Service may authorize public service use without charge when, in his judgment, such use will contribute to public information and education concerning wise use of the environment and programs which foster maintenance and improvement of environmental quality.

Commercial Use

The Chief of the Forest Service may authorize commercial use based on the following conditions:

1. That the proposed use will contribute to public knowledge about wise use of the environment and programs which foster maintenance and improvement of environmental quality.
2. That the use is consistent with Woodsy Owl's status as a national symbol.
3. That a use charge reasonably related to the commercial value has been established.
4. That the applicant is well qualified to further the goals of the Woodsy Owl campaign.
5. That, when an exclusive license is requested, no other qualified applicant can be found who will provide comparable support under a non-exclusive license.

The regulation sets conditions for exclusive licenses as follows:

1. A definite expiration date shall be established.
2. The Chief shall retain independent right to use Woodsy Owl in any way that does not, in his judgment, conflict with such use.
3. Licensee shall be required to have the licensed item available for sale within a specified period of time.
4. Licensee shall be required to invest a specified minimum amount of money in development, production, and promotion of the item.

5. The Chief retains the right to revoke any license for failure to comply with all terms and conditions of the license.

6. The licensee shall be required to submit periodic progress reports.

7. The license normally shall not be subject to transfer.

8. The licensee normally shall not be authorized to grant sublicenses.

The regulation directs that the Chief of the Forest Service retain the power to revoke any authorization or license if the use is injurious to the purpose of Woodsy Owl.

Review Schedule

Review of the regulation will be completed by October 1981. If it is determined that the regulation needs modification, a proposed rule will be issued at that time.

Part 272 of 36 CFR presently reads as follows:

§ 272.1 Definitions.

(a) The term "Woodsy Owl" means the name and representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored), with a feather (red when colored), and who furthers the slogan, "Give a Hoot, Don't Pollute," originated by the Forest Service of the United States Department of Agriculture, or a facsimile or simulation thereof, in such a manner as suggests "Woodsy Owl."

(b) The term "Chief" means the Chief of the Forest Service, U.S. Department of Agriculture, or person designated to act for him. (36 FR 23220, Dec. 7, 1971, as amended at 40 FR 12641, Mar. 20, 1975)

§ 272.2 Use of official campaign materials.

Official materials produced for the "Woodsy Owl" campaign may be used without express approval from the Chief of the Forest Service where such use is solely for the purpose of increasing public knowledge about wise use of the environment and programs which foster maintenance and improvement of environmental quality. (40 FR 12641, Mar. 20, 1975)

§ 273. Public service use.

The Chief of the Forest Service may authorize the use of "Woodsy Owl" for noncommercial educational purposes, without charge, when such use is essentially as a public service and will, in his judgment, contribute to public information and education concerning wise use of the environment and programs which foster maintenance and improvement of environmental quality. (40 FR 12641, Mar. 20, 1975)

§ 272.4 Commercial use.

(a) *General.* The Chief may authorize the Commercial manufacture, importation, reproduction, or use or "Woodsy Owl" upon the following findings:

(1) That the proposed use of "Woodsy Owl" will contribute to public knowledge about wise use of the environment and programs which foster maintenance and improvement of environmental quality.

(2) That the proposed use is consistent with the status of "Woodsy Owl" as a national symbol for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

(3) That a use charge, royalty charge or payment in kind which is reasonably related to the commercial value has been established.

(4) That the applicant is well qualified to further the goals and purposes of the "Woodsy Owl" campaign.

(5) That, when an exclusive license is requested, no other qualified applicant can be found who will provide comparable campaign support under a nonexclusive license.

(6) That such other conditions as the Chief may deem necessary in each case have been established.

(b) *Requirements for exclusive licenses.* Exclusive licenses, when granted, shall conform to the following:

(1) A definite expiration date shall be specified based on the minimum time determined by the Chief to be needed by the licensee to introduce or popularize the item licensed and to recover the costs and expenses incurred in so doing.

(2) The Chief shall retain the independent right to use "Woodsy Owl" in any concurrent, noncommercial program, and to allow for the manufacture and sale of "Woodsy Owl" merchandise which, in his judgment, would not be in conflict with the licensed item.

(3) The licensee shall be required to have the licensed item available for sale, and promotion within a specified period, or show cause why this could not be done.

(4) The licensee shall be required to invest a specified minimum amount of money in the development, production, and promotion of the licensed item, as determined by the Chief to be necessary to insure that the licensee's use of "Woodsy Owl" will result in a substantial contribution to public information concerning pollution abatement and environmental enhancement.

(5) The Chief shall retain the right to revoke any license for failure of the licensee to comply with all the terms and conditions of the license.

(6) The licensee shall be required to submit periodic progress reports to apprise the Forest Service of his activities and progress in achieving stated objectives.

(7) The license shall not be subject to transfer or assignment, except as approved in writing by the Chief.

(8) The licensee shall not be authorized to grant sublicenses in connection with the manufacture and sale of the item, except as approved in writing by the Chief. (37 FR 5700, Mar. 18, 1972, as amended at 40 FR 12641, Mar. 20, 1975)

§ 272.5 [Reserved].

§ 272.6 Power to revoke.

It is the intention of these regulations that the Chief, in exercising the authorities delegated hereunder, will at all times consider the primary purpose of carrying on a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality. All authorities and licenses granted under these regulations shall be subject to abrogation by the Chief at any time he finds that the use involved is injurious to the purpose of the "Woodsy Owl" campaign, is offensive to decency or good taste, or for similar reasons, in addition to any other limitations and terms contained in the licenses and other authorities. (40 FR 12641, Mar. 20, 1975)

Douglas R. Leisz,

Associate Chief.

June 5, 1981.

[FR Doc. 81-17484 Filed 6-11-81; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 21

Extension of Educational Benefits to Eligible Person

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation permits a greater extension of educational benefits to an eligible person when his or her eligibility for educational assistance ends, because circumstances change for the veteran on whom the eligibility is based. For several years the law has allowed

payments of benefits to the end of the course or for 12 weeks, whichever occurs first, when the eligible person who loses eligibility is attending a school that is not organized on a quarter or semester basis. The current regulation permits only a 9-week extension. This proposal corrects the discrepancy between law and regulation.

DATES: Comments must be received on or before July 13, 1981. It is proposed to make this proposal effective October 15, 1976.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until July 23, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4135 is amended to lengthen the period of payment of educational assistance to an eligible person who loses eligibility. This amendment applies to an eligible person who is enrolled in a school which is not organized on a quarter or semester basis. The Veterans Administration will apply the amendment when the eligible spouse is divorced from the veteran on whom the eligibility is based; or the Veterans Administration no longer rates that veteran as permanently and totally disabled; or the serviceperson upon whom eligibility is based is removed from the "missing status" list.

The agency has determined that this proposed regulation is nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation. It has also been determined as required by the Regulatory Flexibility Act (Pub. L. 96-354) that it poses no compliance costs or reporting burdens upon the public and has no effect on business or State and local governments.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until July 23, 1981. Any person visiting the Veterans Administration Central Office in Washington, DC for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office, and furnished the address and the above room number.

Approved: May 28, 1981.

Rufus H. Wilson,

Acting Administrator.

In § 21.4135, paragraph (o) is revised as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(o) *Veteran no longer rated permanent total disabled; or spouse (trainee) divorced from veteran without fault on his or her part; or serviceman or servicewoman removed from "missing status" listing—chapter 35 (§§ 21.3041 and 21.3046).* (1) End of quarter or semester if school is operated on quarter or semester system.

(2) End of the course or a 12-week period, whichever is earlier, if the school does not operate on a quarter or semester system. (38 U.S.C. 1711(b))

* * * * *

[FR Doc. 81-17460 Filed 6-11-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-1846-2]

Removal of Illinois State Implementation Plan Approval Condition

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to remove the State Implementation Plan approval condition which requires the State of Illinois to utilize emission factors and to promulgate administrative rules interpreting Illinois Rule 108 as it applies to fugitive particulate emissions by July 1, 1980. The determination to remove this condition is based on subsequent information made available to EPA by the Manager of the Illinois Environmental Protection Agency (IEPA). In that letter, the IEPA points out that Rule 203(f) together with Rule 108 of the Illinois State Implementation Plan provides a legally enforceable means to accurately calculate storage pile fugitive emissions. It would be impractical to write emission factors and the use of those factors for every storage pile. This could cause administrative delays which would preclude the use of the most up to date and technically correct emission factors.

DATES: Written comments must be submitted on or before July 13, 1981.

ADDRESSES: Comments should be submitted to Mr. Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the SIP revision and supporting documentation are available at the following addresses for inspection:

United States Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: In its final rule on the Illinois State Implementation Plan published on February 21, 1980 (45 FR 11472), USEPA approved the State's Total Suspended Particulate (TSP) control strategy on the condition that the State utilize emission factors for determining potential emissions from storage piles, promulgate rules specifying the manner in which those emission factors would be used, and submit these rules to the Illinois Secretary of State and USEPA by July 1, 1980.

Subsequent information provided in a December 5, 1980, letter to the Regional Administrator from the Manager of the Illinois Environmental Protection Agency (IEPA) Division of Air Pollution Control, caused USEPA to reevaluate the need for this condition.

In the December 5, 1980, letter, IEPA asserted that Rule 203(f) together with Rule 108, provides a legally enforceable means to accurately calculate storage pile fugitive emissions both for

enforcement purposes and air quality modeling purposes. IEPA maintained that the language of rule 108 is necessarily general because it is designed to provide for the use of the most up to date and technically correct emission factors for each storage pile. Attempting to codify which emission factor must be used in every instance for every storage pile would be impractical. Administrative delays resulting from the State's rulemaking process would preclude the use of the most up to date and technically correct emission factors in the permitting process.

USEPA concurs with the State's assertions. Cancelling this condition will not significantly reduce the effectiveness of Rule 203(f). Therefore, USEPA proposes to eliminate the condition that the State of Illinois promulgate administrative rules interpreting Rule 108 as it applies to fugitive particulate emissions. USEPA solicits comments on this proposed action from all interested parties.

Comments should be submitted to the address listed in the front of this notice. Public comments received on or before July 13, 1981 will be considered in USEPA's final rulemaking on the SIP. All comments received will be available at Region V Office, Air programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it proposes to remove an existing regulatory requirement.

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

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified on January 27, 1981, that the attached rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action proposes to remove a SIP approval condition which subsequent analyses indicates is not necessary. This action imposes no new requirements but rather removes an existing requirement.

This Notice of Proposed Rulemaking is issued under the authority of Section 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)).

Dated: May 20, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-17580 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-5-FRL-1851-3]

Ohio; Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: On January 22, 1981, U.S. Environmental Protection Agency proposed revisions to the sulfur dioxide emission limitations in the federally promulgated Ohio State Implementation Plan (SIP) for sources in Pike and Wayne Counties (46 FR 7008). At the time of the proposed rulemaking, a 30 day public comment period was provided. However, in response to the Ohio Environmental Protection Agency's request, the public comment period is being reopened for an additional 30 days.

DATE: Comments must be received on or before July 13, 1981. If possible, please send an original and four copies.

ADDRESSES: Comments should be submitted to: Gary Gulezian, Chief, Regulatory Analysis Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at (312) 886-6088.

Dated: June 5, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 17527 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-6-FRL 1844-7]

Approval and Promulgation of State Implementation Plans; Oklahoma Submission of Volatile Organic Compound (VOC) Regulations for Set II Control Technique Guideline Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This action proposes conditional approval of revisions to the Oklahoma State Implementation Plan (SIP) which were submitted by the Governor on June 10, 1980. Specifically, the State has revised, Regulation No. 15, "Control of Emissions of Organic Materials," to include legally enforceable regulations for several of the source categories addressed in those EPA Control Technique Guidelines (CTG) which were issued between January 1978 and January 1979 (Set II CTGs). These revisions were submitted in response to the Clean Air Act Amendments of 1977. The Administrator's memorandum of February 24, 1978 (43 FR 21673, May 19, 1978), and the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas (44 FR 20372, April 4, 1979), described the minimum requirements for the stationary source portion of an approvable ozone SIP revision.

DATES: Interested persons are invited to submit comments on this proposed action on or before July 13, 1981.

ADDRESSES: Written comments should be submitted to the address below: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270, Attn: Docket No. OK-02-80-A.

Copies of the State's submittal are available for inspection during normal business hours at the address above and at the following locations:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, EPA Library, 401 "M" Street SW, Washington, D.C. 20460

Oklahoma State Department of Health, Air Quality Service, Northeast 10th Street and Stonewall, Oklahoma City, Oklahoma 73105.

FOR FURTHER INFORMATION CONTACT: Donna M. Ascenzi, Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Introduction

Provisions of the Clean Air Act enacted in 1977 (the Act) required States to revise their State Implementation Plans (SIPs) for areas that had not attained the National Ambient Air Quality Standards (NAAQS).The requirements for an approvable SIP were set out in Section 110 and Part D of the Act. The Administrator's memorandum of February 24, 1978, published in the **Federal Register** at 43 FR 21673 (May 19, 1978), summarized the elements that an approved SIP must contain in order to meet the requirements of Part D. EPA also published at 44 FR 20372 (April 4, 1979), a General Preamble for proposed rulemaking on approval of SIP revisions for nonattainment areas, summarizing the major considerations guiding EPA's evaluation of nonattainment area plan revisions. EPA published the General

Preamble in order to assist the public in commenting on the approvability of the State SIP revisions. See, also, supplements to the General Preamble published at 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

For areas not attaining the ozone NAAQS, the Administrator's memorandum and the General Preamble stated that, at a minimum, the stationary source portion of an approvable ozone SIP revision must include legally enforceable regulations that reflect the application of reasonably available control technology (RACT) to those volatile organic compound (VOC) sources for which EPA had published a Control Technique Guideline (CTG) by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis for VOC sources covered by CTGs published by January of the preceding year. RACT requirements for sources covered by the CTGs issued between January 1978 and January 1979 (Set II CTGs) were to be adopted and submitted to EPA by July 1, 1980 (44 FR 50371, August 28, 1979). However, because State regulatory processes took longer than anticipated, but in most cases good faith efforts were being made to adopt the necessary regulations, EPA notified States (at 45 FR 78121, November 25, 1980) that plan revisions setting forth RACT regulations for the following Set II CTG sources were due January 1, 1981:

Factory Surface Coating of Flatwood Paneling
Petroleum Refinery Fugitive Emissions (Leaks)
Pharmaceutical Manufacture
Rubber Tire Manufacture
Surface Coating of Miscellaneous Metal Parts and Products
Graphic Arts (Printing)
Dry Cleaning, Perchloroethylene
Gasoline Tank Trucks, Leak Prevention
Petroleum Liquid Storage, Floating Roof Tanks

On June 10, 1980, after adequate notice and public hearing, the Governor of Oklahoma submitted revisions to Regulation No. 15, "Control of Emissions of Organic Materials," which consisted of legally enforceable regulations for the following Set II CTG source categories: Petroleum liquid storage in external floating roof tanks, graphic arts systems, and petroleum refinery equipment leaks. The Governor's submittal also contained certification that there were no major stationary sources in the ozone nonattainment areas for the following Set II CTG source categories: gasoline tank trucks, perchloroethylene dry cleaning, pharmaceutical manufacture, and flatwood paneling. EPA has reviewed the State's submittal and developed an evaluation report,[1] which discusses the technical aspects of the revisions in detail. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

The July 2, 1979 supplement to the General Preamble of April 4, 1979, outlined, among other things, the criteria for conditional approval. EPA proposes to conditionally approve these revisions where there are minor deficiencies and the State has provided assurances that it will submit corrections by a specific deadline. This notice solicits comments on what items should be conditionally approved, and it solicits comments on the deadlines where specified in this notice. A conditional approval will mean that the restrictions on new major source construction (Clean Air Act section 110(a)(2)(I)) 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.

Revisions to Regulation No. 15

As previously noted, the State has revised Oklahoma Air Pollution Control Regulation No. 15 entitled, "Control of Emissions of Organic Materials," to include legally enforceable regulations which address the application of RACT to the following Set II CGT source categories: Petroleum liquid storage in external floating roof tanks, graphic arts systems, and petroleum refinery equipment leaks.

EPA has reviewed the revisions to Regulation No. 15 and found several deficiencies in the State's approach to the control of VOC emissions from these source categories. The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except an noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the CTGs. The specific deficiencies are outlined below.

[1] EPA Review of Oklahoma's State Implementation Plan Revisions for Set II CTG Source Categories, December 1980.

1. Subsection 15.572 pertains to the control of VOC emissions from petroleum storage in external floating roof tanks, and includes an exemption for tanks storing produced crude oil and condensate, which is not consistent with RACT for this source category. The State must revise this subsection to be consistent with RACT or demonstrate to the Agency's satisfaction that the acceptable exemption in Subsection 15.27(b) is applicable to and must be considered in conjunction with Subsection 15.572(b)(2), so that 15.572(b)(2) is, in fact, consistent with RACT.

2. Section 15.58, which pertains to control requirements for graphic art systems, must be revised to include the appropriate test methods.

3. Section 15.59 pertains to the control of VOC emissions from petroleum refinery equipment leaks. Some of the control requirements specified do not represent RACT, as discussed in the evaluation report. The State must revise the regulation to be consistent with RACT or demonstrate to the Agency's satisfaction that the State's requirements represent RACT.

4. Section 15.59 must be revised to include the appropriate test method.

5. Subsection 15.12D exempts methyl chloroform (1,1,1-trichloroethane) and methylene chloride. On May 16, 1980, EPA published a clarification of Agency policy concerning the control of these compounds in ozone SIPs. EPA explained that it cannot approve or enforce controls on either of these two compounds as part of a Federally enforceable ozone SIP because current information indicates that neither compound is an ozone precursor. Consequently, EPA is not proposing disapproval of Oklahoma's exemption of these compounds.

This policy is in no way an expression of EPA's review on the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in Section 116 of the Clean Air Act. In addition, State officials and sources should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds. (See, e.g., Proposed New Source Performance Standards for Organic Solvent Cleaners, 45 FR 39766, June 11, 1980).

EPA proposes to conditionally approve the revisions to Regulation No. 15 on the following conditions: (1) The regulation is revised in accordance with the requirements discussed above and submitted to EPA within 120 days from the publication of this notice, and (2)

that the State submit the additional demonstrations within 60 days from the publication of this notice.

Tank Trucks

As previously noted, the Governor's submittal also contained certification that there were no major stationary sources in the ozone nonattainment areas for several of the Set II CTG source categories, including gasoline tank trucks. According to EPA policy, a regulation requiring annual certification and testing for gasoline tank trucks is necessary only for those ozone nonattainment areas which have been granted extensions until 1987. However, under the RACT requirements for gasoline terminals, which the States were required to adopt by January 1, 1979, tank trucks loading gasoline at regulated terminals were required to be essentially leakless and equipped for vapor collection in order to meet the mass emission or efficiency standard. Therefore, States are required, at this time, to include test methods that address the leak tight tank truck conditions, in conjunction with previously adopted gasoline terminal regulations.

Since the State of Oklahoma has adopted a regulation for gasoline terminals, and requires tank trucks to be vapor tight, EPA is proposing to conditionally approve the June 10, 1980 submittal, on the basis that the State include a test method that addresses the leak tight conditions of the tank trucks, and submit the revised regulation to EPA within 120 days from the publication of this notice.

Pneumatic Rubber Tires

The Governor's submittal of June 10, 1980 did not contain a legally enforceable regulation for pneumatic rubber tire manufacture. However, the State has committed to a course of action which will result in the adoption and submittal to EPA of such a regulation. Regulation revisions concerning pneumatic rubber tire manufacture were the subject of a public hearing on May 20, 1980, were considered by the Air Quality Council on November 18, 1980, and are scheduled for adoption by the Board of Health in the near future.

EPA has reviewed the State's proposed regulation for the manufacture of pneumatic rubber tires and found several deficiencies in the State's approach to the control of VOC emissions from this source category, as noted in detail in EPA's evaluation report. Several of these deficiencies are due to a lack of sufficient justification for the regulation's deviation from the information in the CTG document for this source category. EPA has notified the State of these deficiencies, and the State has committed to submit additional information for justifying the deviations. Therefore, EPA is proposing conditional approval of the proposed revision to Regulation No. 15, concerning the manufacture of pneumatic rubber tires, based on the State meeting the following conditions and schedule:

(1) The State submit all required additional information, to justify the deviations from the CTG to the Agency's satisfaction or revise Regulation No. 15 to be consistent with RACT, within 120 days from the publication of this notice.

(2) Adopt the revised regulation within 150 days from the publication of this notice, and

(3) Submit the revised regulation to EPA within 170 days from the publication of this notice.

Miscellaneous Metal Parts and Products

The Governor's submittal of June 10, 1980 also contained the testimony obtained at the March 18, 1980 public hearing, pertaining to the State's proposed regulation for the control of VOC emissions from the surface coating of miscellaneous metal parts and products. This testimony was submitted as evidence to support the Oklahoma Air Quality Council's determination that the adoption of such a regulation would result in extreme economic hardship to the citizens of Oklahoma. Therefore, the State of Oklahoma has not adopted a new regulation for this source category.

However, on January 20, 1981, the State submitted correspondence, which indicated that the application of their existing general coating regulation (i.e. section 15.30) would result in substantially more reduction in VOC emissions than a regulation specific to miscellaneous metal parts and products, since it applies to a wider variety of source categories. Therefore, EPA is proposing conditional approval of Regulation No. 15, based on the State meeting the following conditions and schedule:

(1) The State submit additional information to verify to the Agency's satisfaction that the State's existing coating regulation will result in greater reductions than the CTG limitations for surface coating of miscellaneous metal parts and products, or revise Regulation No. 15, within 120 days from the publication of this notice.

(2) Adopt the revised regulation (if necessary) within 150 days from the publication of this notice, and

(3) Submit the revised regulation (if necessary) to EPA within 170 days from the publication of this notice.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified (46 FR 8709) 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.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it is merely proposing to approve a State action. It will impose no new regulatory action.

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

This notice of proposed rulemaking is issued under the authority of sections 110(a) and 172 of the Clean Air Act, 42 U.S.C. 7410(a) and 7502.

Dated: April 13, 1981.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 81-17588 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 62

[A-2-FRL-1846-8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Puerto Rico

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Regulations promulgated under the provisions of Section 111(d) of the Clean Air Act require States to submit plans to the Environmental Protection Agency (EPA) to control fluoride emissions from existing primary aluminum plants and total reduced sulfur from kraft pulp mills. Alternatively, a State may submit to EPA "negative declarations" which certify that no such sources exist within the State's boundaries. This **Federal Register** notice proposes approval of such negative declarations which have been submitted to EPA by the Commonwealth of Puerto Rico.

DATE: Comments must be received on or before July 13, 1981.

ADDRESSES: All comments should be addressed to: Richard T. Dewling, Acting Regional Administrator, Environmental Protection Agency,

Region II Office, 26 Federal Plaza, New York, New York 10278.

A copy of the letter received from Puerto Rico is available for public inspection during normal business hours at:

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

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

Puerto Rico Environmental Quality Board, Division of Water and Air, Environmental Quality Board Building, Santurce, Puerto Rico 00910.

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

SUPPLEMENTARY INFORMATION: The Commonwealth of Puerto Rico has submitted "negative declarations," on April 28, 1981, with regard to kraft pulp mills and primary aluminum plants. This fulfills the Commonwealth's responsibility for submitting state control plans as required by Section 111(d) of the Clean Air Act, and by Subpart A of 40 CFR Part 62. A more detailed discussion of 111(d) control plans is contained in the October 18, 1977, July 10, 1978 and November 3, 1978 issues of the **Federal Register** (42 FR 55796, 43 FR 29585, and 43 FR 51393, respectively).

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it identifies where State plans are not needed, thereby reducing further regulatory requirements.

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

This notice of proposed rulemaking is issued under the authority of Sections 111(d) and 301(a) of the Clean Air Act, as amended, to advise the public that comments may be submitted within 30 days of publication of this notice on whether the proposed action is appropriate.

(Sections 111 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: May 29, 1981.

Richard T. Dewling,

Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 81-17530 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 81

[A-5-FRL 1841-1]

Indiana; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 21, 1980 the State of Indiana, pursuant to section 107(d)(5) of the Clean Air Act (Act), requested that the U.S. Environmental Protection Agency (EPA) change the total suspended particulate (TSP) designation of certain areas of LaPorte County from primary nonattainment to attainment which results in an attainment designation for the entire county. EPA has reviewed the redesignation request and the data submitted by the State to support the request and proposes to redesignate LaPorte County as attainment.

The purpose of today's notice is to announce receipt of the redesignation request to discuss the results of EPA's review, to propose rulemaking action on the redesignation request, and to invite public comment on the redesignation request and EPA's proposed rulemaking.

DATE: Comments on the redesignation and on EPA's rulemaking action are due July 13, 1981.

ADDRESSES: Comments on this rulemaking should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the redesignation request, technical support document, and the supporting air quality data are available at the address given above and at: Public Information Reference Unit, Room 2922 (Library), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

Copies of the submission are also available at: State of Indiana, Air Pollution Control Board, 1330 W. Michigan Street, Indianapolis, IN 46206.

FOR FURTHER INFORMATION CONTACT: Sharon Kraft, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Clean Air Act (Act) directing each State to submit to the Administrator of EPA a list of those areas within the State which had ambient air concentrations of the pollutants sulfur dioxide (SO_2), total suspended particulates (TSP), nitrogen oxides (NO_x), carbon monoxide (CO) and ozone (O_3) which exceeded EPA established primary and secondary National Ambient Air Quality Standards (NAAQS) for each of these pollutants. These areas were to be designated as nonattainment areas. The areas within each State which had ambient air concentrations below the NAAQS level were to be designated as attainment. Those areas which lacked sufficient monitoring data to accurately determine their status were to be designated as unclassified. The purpose of making these designations was to determine which areas within the State required additional air pollution control measures to ensure attainment of the appropriate NAAQS by December 31, 1982.

In the March 3, 1978 **Federal Register** (43 FR 8962) and in the October 5, 1978 **Federal Register** (43 FR 45993) the Administrator of EPA promulgated lists of the nonattainment areas for each pollutant in each State. These lists also contained classifications for the attainment and unclassified areas within the State. In Indiana, the Townships of Center, Kankakee, New Durham, Pleasant and Scipio and the area north and west of I-94 were designated as nonattainment for the TSP NAAQS.

Section 107(d) of the Act permits EPA to change the designation for an area whenever sufficient data exist to warrant such a change. In the June 12, 1979 memo entitled "Section 107 Redesignation Criteria," Richard G. Rhoads, then Director of EPA's Control Program Development Division, described EPA's requirements for approval of a change in an area's designation. A change from primary nonattainment to either secondary nonattainment or attainment may be approved if there are eight consecutive quarters of recent ambient air quality data which show no violations of the appropriate NAAQS.

On May 21, 1980 the State of Indiana requested EPA to revise the TSP nonattainment designation for the Townships of Center, Kankakee, New Durham, Pleasant and Scipio and the area north and west of I-94 to attainment. To support its request, Indiana submitted adequate, quality assured ambient monitoring data from two representative monitors. These data demonstrate that no violation of the primary or secondary long or short-term TSP standard has occurred over the most recent eight quarters of available data. Therefore, EPA has determined that the redesignation is appropriate and is proposing to redesignate the entire

County of LaPorte as attainment for TSP.

All interested persons are invited to submit written comments on the proposed redesignation. Comments should be submitted to the address listed in the front of this notice. Comments received on or before (30 days from date of publication) will be considered in EPA's final rulemaking.

Pursuant to the provisions of 5 U.S.C. section 605(b), the Administrator has certified (46 FR 8709) that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities but only changes an air quality designation. Any regulatory requirements of this action will be dealt with in a separate action.

Under Executive Order 12291, U.S. EPA must determine whether a proposed regulation is a major rule and therefore subject to the requirement of a regulatory impact analysis. I reviewed this proposed rulemaking and determined that it is not a major rule because U.S. EPA is revising an air quality designation at the request of the State of Indiana and not imposing new requirements. This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This Notice of Proposed Rulemaking is issued under the authority of section 107 of the Clean Air Act, as amended.

Dated: May 4, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-17519 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-6-FRL-1850-3]

Kansas Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: EPA Region VII.

ACTION: Notice of Public Comment Period and Review Period Extension.

SUMMARY: This notice extends the public comment period on the Kansas Phase I interim authorization application to July 13, 1981. A previous **Federal Register** notice dated May 4, 1981 (46 FR 24968) announced the availability of the Kansas interim authorization application for public review and gave notice of a June 3, 1981 public hearing. On May 27, 1981, EPA asked the State for clarification of several statements in the application. To allow for sufficient public review, a June 1, 1981 **Federal Register** notice extended the public comment period to July 3, 1981. (46 FR 29292). At the public hearing, the State responded to most of EPA's May 27th comments. However, references to newly-passed hazardous waste legislation and other clarifications requested of the Attorney General were not yet available. This portion of the State's response will be submitted to EPA no later than June 12, 1981. To allow for public review of all materials submitted by the State, EPA is again extending the public comment period to close of business July 13, 1981.

The State of Kansas has requested that EPA's formal review period be extended 45 days. The final determination by EPA on the Kansas application will now be required no later than September 17, 1981.

DATE: Comments on the Kansas Phase I interim authorization application must be received by EPA, Region VII, by close of business July 13, 1981.

The final determination by EPA on the Kansas application will now be required no later than September 17, 1981.

ADDRESSES: Copies of the Kansas interim authorization application and all minor revisions and requested comments are available during business hours at the following locations for inspection and copying by the public.

Kansas Department of Health and Environment, Bureau of Environmental Sanitation, Forbes Field, Topeka, Kansas 66620, 913/862-9360 Ext. 297, Business Hours: 8:00-4:30, $0.25 per page copying charge;

U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, 816/374-6533, Business Hours: 7:30-4:30, $0.20 per page copying charge;

U.S. Environmental Protection Agency, Office of Solid Waste, 401 M Street, S.W., Washington, D.C. 20460, 202/382-2210, Business Hours: 7:30-4:30.

Send written comments to: Robert L. Morby, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby (816) 374-3307.

Dated: June 5, 1981.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 81-17504 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-30-M

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40 CFR Parts 430 and 431

[WH-FRL-1853-1]

Pulp, Paper, and Paperboard and Builders' Paper and Board Mills Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On January 6, 1981, EPA proposed a regulation under the Clean Water Act for pollutant discharges from pulp, paper, and paperboard mills (46 FR 1430). The comment period was scheduled to expire June 9, 1981. EPA is hereby extending the period for comments on all issues relating to proposed best conventional pollutant control technology (BCT) effluent limitations for the pulp, paper, and paperboard and builders' paper and board mills point source categories. This extension will last until 60 days after EPA proposes a change in the publicly owned treatment works (POTW) cost comparison figure used in the BCT cost-reasonableness test. Comments on all other aspects of the proposed rulemaking must be submitted by June 9, 1981.

DATE: Comments on the proposed BCT regulations for the pulp, paper, and paperboard industry must be submitted to EPA 60 days from the date that a change in the POTW cost comparison figure is proposed. Comments on all non-BCT issues must be submitted to EPA by June 9, 1981.

ADDRESS: Send comments to Mr. Robert W. Dellinger, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, attention: EGD Docket Clerk, Proposed Pulp, Paper, and Paperboard Industry Rules (WH-552).

The supporting information and all comments on the proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Dellinger or Mr. Arthur E. Shattuck, (202) 426-2554.

SUPPLEMENTARY INFORMATION: On January 6, 1981, EPA proposed regulations to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly

owned treatment works from the pulp, paper, and paperboard industry (46 FR 1430). Comments on the proposal were to be submitted on or before March 9, 1981. In two separate actions, the Agency extended the comment period until May 1, 1981, and until June 9, 1981 (46 FR 15287, March 5, 1981; 46 FR 21396, April 10, 1981). On April 24, 1981, the American Paper Institute (API) petitioned for a suspension of the close of the comment period on the proposed pulp and paper regulations pertaining to the control of conventional pollutants until 90 days after a new cost comparison figure for publicly owned treatment works (POTW) is announced. Industry representatives also requested that if the Agency did not grant this first request, that EPA reopen the comment period for 90 days from the date any change in the POTW cost comparison figure is announced. API's request was based on the expectation that EPA would be substantially revising the POTW cost comparison figure to correct errors in underlying calculations and would also be reassessing the promulgated BCT methodology (44 FR 50732, August 29, 1979).

After reviewing this request, EPA has decided to extend the period for comment on all issues relating to proposed BCT effluent limitations for the pulp and paper industry until 60 days from the date that a change in the POTW cost comparison figure is proposed. The comment period on proposed pulp and paper BCT effluent limitations will close at the same time as the comment period on the new POTW cost comparison figure. The extended comment period is limited to BCT issues in the pulp and paper rulemaking and will not extend to other areas such as BAT limitations, new source performance standards, or pretreatment standards for new and existing sources. The comment period for all non-BCT issues will close on June 9, 1981, as scheduled.

We believe that this action will provide the pulp, paper, and paperboard industry and other interested parties with sufficient opportunity to review and comment on any revision to the POTW cost comparison figure that would affect the issues relating to proposed BCT effluent limitations for the pulp and paper industry.

The Agency is encouraging the early submission of any data or comments on the proposed BCT effluent limitations. Such comments will enable us to begin evaluating the soundness of EPA's assessment of the conventional pollutant removal capability of the four technology options considered in proposing BCT effluent limitations, the accuracy of the Agency's cost estimates, the methodology used and the results of our economic impact analysis, alternative BCT technology options, and all other technical aspects of our proposed BCT rules.

Dated: June 5, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81-17644 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-29-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1300

Medical and Social Services for Certain Handicapped Persons

AGENCY: Office of Human Development Services (HDS), Department of Health and Human Services (DHHS).

ACTION: Withdrawal of notice of decision to develop regulations.

SUMMARY: The purpose of this notice is to withdraw the Notice of Decision to Develop Regulations for Section 1620 of the Social Security Act. That Notice was published in the **Federal Register** October 6, 1980 (45 FR 66180).

Section 1620, "Medical and Social Services for Certain Handicapped Persons," was established by Section 201(c) of Pub. L. 96-265, the "Social Security Disability Amendments of 1980." Section 1620 was an optional three-year pilot program to provide medical and social services to severely handicapped employed persons who met certain eligibility criteria. States could participate in this program by amending their title XX administrative plan or by submitting a separate State plan to be approved by the Secretary. The statute allowed for a total authorization of $18 million for the three year period beginning September 1, 1981.

During the FY 1982 budget process, it was decided that funding for this program would not be available. Therefore, HDS has decided not to proceed with the development of proposed rules and hereby withdraws its Notice of Decision to Develop Regulations.

FOR FURTHER INFORMATION CONTACT: Mrs. Johnnie U. Brooks, (202) 472-4415.

Dated: June 4, 1981.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 81-17395 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-92-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-256; RM-3118]

FM Broadcast Station in Lockhart, Tex.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Request for Supplemental Information (Proposed Rule); Extension of comment and reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning the proposed assignment of an FM channel to Lockhart, Texas. Petitioner, Entertainment Communications, Inc. (Texas), states that additional time is needed to coordinate showings of the parties.

DATES: Comments are now due on or before June 10, 1981 and replies on or before July 1, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Lockhart, Texas), BC Docket No. 79-256, RM-3118.

Adopted: June 2, 1981.

Released: June 5, 1981.

1. On April 1, 1981, the Commission adopted a *Request for Supplemental Information*, 46 FR 22770, published April 21, 1981, in the above-entitled proceeding. The dates for filing comments and reply comments are presently June 1, and June 22, 1981, respectively.

2. On May 27, 1981, counsel for Entertainment Communications, Inc. (Texas) (hereinafter ECI), filed a "Request for Extension of Time To Supply Supplemental Information" to and including June 10, 1981. Counsel states that additional time is necessary to coordinate various showings being prepared by several consulting engineers and to submit comments in this proceeding, which is one of several

rule making proceedings relating to pending applications by various FM stations in Houston, Texas, proposing to relocate their facilities to a common transmitter site.

3. We are of the view that the public interest would be served by granting the additional time to file the supplemental information herein.

4. Accordingly, it is ordered, that the time for filing comments and reply comments in BC Docket No. 79-256, are extended to and including June 10 and July 1, 1981, respectively.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-17582 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Proposed Rule Describing Areas in Which Non-Toxic Shot Would Be Required for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule describes non-toxic shot zones for waterfowl hunting. When eaten by waterfowl, spent lead pellets may have a toxic effect. These non-toxic shot zones may reduce the number of deaths to waterfowl as a result of eating spent lead pellets. The only approved non-toxic shot available at this time is steel shot.

DATES: Comments on this proposed rule will be accepted until July 12, 1981.

ADDRESS: Submit comments to Director (FWS-MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert I. Smith, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202-254-3207).

SUPPLEMENTARY INFORMATION: Research on the problem of lead poisoning in waterfowl has been conducted throughout most of this century. The complexities of the issue have been explored with conservationists, ammunition manufacturers, and State fish and game departments. For many years the Service has studied lead poisoning of waterfowl in cooperation with organizations representing a broad cross section of interests affected by and concerned with the problem.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the Service prepared a Final Environmental Statement (Use of Steel Shot for Hunting Waterfowl in the United States). This document was published in January 1976 and is available from the Service on request.

On March 20, 1976, the Secretary of the Interior announced a plan for the progressive implementation of steel shot. According to this plan, shotshells loaded with non-toxic shot were required for hunting waterfowl in designated areas of the Atlantic Flyway beginning in 1976, in designated areas of the Mississippi Flyway beginning in 1977, and in designated areas of the Central and Pacific Flyways beginning in 1978.

On July 28, 1976, a final rule on the use of steel shot for waterfowl hunting was published in the **Federal Register** (41 FR 31386-89) and became effective August 27, 1976. On September 13, 1976, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic Flyway in 1976 (41 FR 38772-74).

On April 28, 1977, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in the Atlantic and Mississippi Flyways in hunting seasons commencing in 1977 (42 FR 21616-18).

On February 28, 1978, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in portions of 32 States in 1978 (43 FR 8144-49).

On July 17, 1979, the Service published descriptions of areas where non-toxic shot was required for waterfowl hunting in portions of 29 States in 1979 (44 FR 41461-67).

Appropriated funds for the Department of the Interior for fiscal years 1979, 1980, and 1981 were restricted in their use by the following provision:

> No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

In States where unapproved, the non-toxic shot regulations have not been enforced since 1979.

In developing this proposed rule two steps were taken. First, it was determined to treat this proposal as a basic rather than an annual rule. This is to reduce year to year uncertainty associated with demand for either lead or steel shot ammunition. Basic rules remain in effect until changed and do not have to be proposed anew each year unless changes are to be made. Second, each State that had non-toxic shot regulations in 1980 was contacted by phone by the Service. Each of these States was asked to identify areas within the State to be proposed in this rule making. Some States responded that the 1980 regulations should be proposed, with the understanding that changes will be requested by the State during the comment period. Other States requested changes, and these changes are incorporated in this proposed rule.

Proposed zones were delineated by giving primary consideration to quantities of lead shot found in the digestive tracts of waterfowl. Where available, other sources of information, such as levels of lead in the soft tissues and blood of waterfowl and documented deaths from this cause, were utilized.

Areas identified for the use of steel shot in South Dakota and Colorado are not included in this proposal. Zones in which steel shot may be required in these two States will be described in State rather than federal regulations. The Service concurs with these two States regarding areas identified by State regulation in 1980 and agrees that information on lead poisoning of geese in both States demonstrates a need for these non-toxic shot zones. The reason for defining these zones by State rather than federal regulation is due to a difference between State and federal rules regarding possession of toxic shot while hunting waterfowl in the zones. Rather than amend either the State or Federal ruling on possession of ammunition, areas in Colorado and South Dakota will not be proposed by the Service at this time.

Regulations regarding use of non-toxic shot on National Wildlife Refuges will be published separately.

Pursuant to Executive Order 12291, the Department has determined that the rule proposed below is not a major rule, nor does it have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Small sporting goods stores purchase stocks of steel shot if they are located in or close to a designated zone. Such stores may be left with stocks for which there is no local demand if the manner in which this rule is implemented changes without adequate warning. This proposed rule should therefore have no effect on small businesses if it is implemented in a

timely manner and does not create sudden changes in the demand for ammunition products. The proposal amends 50 CFR 20.108 to become a basic rather than an annual rule, in order to reduce year to year uncertainty with regards to ammunition demand.

Proposed Ruling

Accordingly, it is proposed that 50 CFR 20.108 be revised to read as follows:

§ 20.108 Non-toxic shot zones.

The areas described within the States indicated below are designated for the purpose of § 20.21(j) as non-toxic shot zones for waterfowl hunting.

Atlantic Flyway

Connecticut

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford Point extending south to Stratford Point, north along Prospect Drive and Route 113 to Interstate 95, easterly along I-95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.

2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point Road and I-91, extending south along I-91 to Route 5, northerly along Route 5 to Sackett Point Road, and easterly along Sackett Point Road to I-91.

Delaware

All lakes, ponds, marshes, swamps, bays, rivers, and streams or within 150 yards thereof within the boundaries of the following areas:

1. Chesapeake and Delaware Canal State Wildlife Area.
2. Augustine State Wildlife Area.
3. Woodland Beach State Wildlife Area.
4. Little Creek State Wildlife Area.
5. Prime Hook State Wildlife Area.
6. Bombay Hook National Wildlife Refuge.
7. Prime Hook National Wildlife Refuge.
8. Cape Henlopen and Delaware Seashores State Parks and Assawoman and Gordon's Pond Wildlife Areas.

Florida

In Osceola, Broward, Dade, Glade, and Leon Counties and on Lake Miccosukee, which lies in Leon County and the adjacent portions of Jefferson County. In that portion of Brevard County lying east of Interstate Highway 95, and on Orange Lake and Lochloosa Lake in Alachua County.

Maine

On the waters of the Kennebec River known as Merrymeeting Bay bounded as follows: from the high tension wires at Chops Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset, and Eastern Rivers and the Richmond-Dresden bridge on the Kennebec River, and within a 150-yard zone of land adjacent to the margins of these waters in the counties of Cumberland, Sagadahoc and Lincoln.

Maryland

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and Chesapeake Bay) in Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent and Cecil Counties and those portions of Harford, Baltimore, and the Anne Arundel Counties lying south and east of U.S. Route 1, and within a 150-yard zone of land in the above counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

Massachusetts

Essex County: North Boundary—Massachusetts—New Hampshire lines (in the town of Salisbury); *West Boundary*—U.S. Route 1 (in Salisbury) from the State line southward to the Parker River; *South Boundary*—the Parker River and lands 150 yards south of the south bank of the Parker River; *East Boundary*—the Atlantic Ocean and the boundaries of the Parker River National Wildlife Refuge.

Also, the Parker River National Wildlife Refuge and Plum Island, including Plum Island State Park.

Plymouth County: Waters of the Wareham and Weweantic Rivers in the towns of Wareham and Marion and the marshes adjacent to these rivers and within a 150 yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

New Jersey

That portion of the State bounded on the north by The Shark River, on the west by the Garden State Parkway, on the south by the Cape May Canal, and on the east by the Atlantic Ocean.

New York

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and ocean waters but not including temporary or sheet water) and all land areas within 150 yards of all waters of the following portions of New York:

1. West of Interstate Highway 81 and north of the New York State Thruway (Interstate Highway 90) with the following exceptions: waters of Lake Ontario, outside the barrier beach, from Tibbets Point in Jefferson County to the mouth of the Niagara River in Niagara County and the waters of the Niagara River from its mouth in Niagara County upstream to the Peace Bridge in the City of Buffalo are excluded from the non-toxic shot requirement. However, this exclusion does not include the Henderson Bay-Black River Bay area which shall continue to require non-toxic shot. The Henderson Bay-Black River Bay area is described as the area east of a line running from Snowshore Point on Henderson Harbor to Pillar Point on the southward portion of the Pillar Point Peninsula.

2. In those portions of Nassau County bounded on the south by the Long Island shoreline from the Wantagh Parkway west to the Nassau County-New York City line; on the west by the Nassau County-New York City line northward from the Long Island shoreline to the Sunrise Highway (Route 27); on the north by the Sunrise Highway (Route 27) eastward to its junction with the Wantagh Parkway; on the east by the Wantagh Parkway southward to the Long Island shoreline.

3. An area including and adjacent to Oneida Lake bounded on the north by route 48 on the east and by route 13 and on the south by route 31 and on the north by Interstate route 81.

4. Wilson Hill Wildlife Management area in St. Lawrence County.

5. Upper and Lower Lakes Wildlife Management area in St. Lawrence County.

6. An area including and adjacent to the Hudson River bounded on the north by the New York State Thruway (Interstate Highway 90); on the east by route 9J from the New York Thruway south to its junction with route 9, south along route 9 to its junction with route 9G in the city of Hudson, then south along route 9G to route 199; on the south by route 199; on the west by route 32 from route 199 north to its junction with route 9W then north along route 9W to route 385 then along route 385 to Lawrence Street in Coxsackie then along Lawrence Street to Nubbell Street, along Nubbell Street to county road 61, then north along county road 61 to route 144, then along route 144 to the New York State Thruway (Interstate 90).

North Carolina

All waters (including sounds, lakes, ponds, marshes, swamps, rivers, and streams) of Currituck, Dare, and Pamlico Counties and within a 150-yard zone of land in these counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

Pennsylvania

Crawford County, Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties, and the waters of the Susquehanna River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehanna River that are described above.

Rhode Island

That portion of Washington County lying south and east of U.S. Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

South Carolina

Georgetown, Colleton, Charleston, and Beaufort Counties.

Virginia

All waters and a 150-yard zone of land adjacent to these waters in the City of Virginia Beach and in an area between the York River and the James River bounded on the north by U.S. Highway 60, on the west by Highway 155, and on the south by Highway 5.

Mississippi Flyway

Illinois

Oakwood Bottoms, Rice Lake, Union County Public Shooting Area, Horseshoe Lake (Alexander County) Public Shooting Area, Stump Lake, and Pend Lake and Wildlife Management Areas.

Indiana

1. On all waters of Lake, Porter, LaPorte, Newton, Jasper, Starke, Elkhart, Kosciusko, LaGrange, Steuben, and Posey Counties and within 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. Within the boundaries of the following State-owned or State-operated properties: Jasper-Pulaski Fish and Wildlife Area in Pulaski County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservoir in Monroe and Brown Counties, and Glendale Fish and Wildlife Area in Daviess County, and the Tri-County Fish and Wildlife Area in Noble and Kosciusko Counties.

3. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

Iowa

1. In Fremont and Mills Counties on all waters and a 150-yard zone of land in these two counties adjacent to waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Missouri River and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. All waters and a 150-yard zone of land adjacent to these waters on the following public hunting areas under the jurisdiction of the State Conservation Commission:

Sweet Marsh in Bremer County
Big Marsh in Butler County
Green Island Area in Jackson County
Princeton Area in Scott County

Ohio

The Maumee River in Wood County and on all waters of Erie, Ottawa, Sandusky, Cuyahoga, Wayne, Holmes, and Lucas Counties and when hunting waterfowl within a 150-yard zone of land adjacent to the margins of these waters. These waters mentioned in this paragraph include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described in this paragraph are excluded from the nontoxic shot requirements.

Michigan

1. Saginaw Bay Area—That area of Iosco, Arenac, Bay, Saginaw, Tuscola and Huron counties: Beginning at a point at the tip of Tawas Point in Sec. 3, T21N, R8E, Iosco County; northeast north and west on Tawas Point Road to its intersection with Highway US–23 (Sec. 21, T22N, R8E); south and west on Highway US–23 in Iosco and Arenac Counties to the intersection with Highway M–13 (Sec. 2, T18N, R4E, Arenac County); south on Highway M–13 in Arenac and Bay Counties to the intersection with interstate Highway I–75 (Sec. 13, T14N, R4E); south on I–75, US–23 to the intersection with Highway US–10 (Sec. 24, T14N, R4E); west on Highway US–10 to the intersection with Garfield Road (northeast corner Sec. 27, T14N, R3E); south on Garfield Road in Bay and Saginaw Counties to the intersection with Tittabawassee Road (southwest corner Sec. 35, T13N, R3E); west on Tittabawassee Road to intersection with Graham Road (northwest corner Sec. 4, T12N, R3E); south on Graham Road to the junction of Highways M–46 and M–52 (west quarter corner Sec. 28, T12N, R3E); south on Highway M–52 to Highway M–57 (southwest corner Sec. 7, T9N, R3E); east on Highway M–57 to Highway M–13 (southeast corner Sec. 13, T9N, R4E); north on Highway M–13 to Burt Road (northwest corner Sec. 31, T10N, R5E); east on Burt Road to Highway I–75, US–10 and US–23 (Sec. 28, T10N, R6E); north on Highway I–75 to Highway M–46 (Sec. 28, T12N, R5E); east on Highway M–46 to North Gera Road southeast corner (Sec. 27, T12N, R6E); north on North Gera Road to Highway M–15 (Sec. 23, T12N, R6E); north on Highway M–15 in Saginaw and Bay Counties to Munger Road (Sec. 18, T13N, R6E); east on Munger Road (M–138) in Bay County and Fairgrove Road (M–138), in Tuscola County to Vassar Road (southeast corner Sec. 13, T13N, R7E); north on Vassar Road to Highway M–25 east quarter corner (Sec. 13, T14N, R7E); east and north on Highway M–25 in Tuscola and Huron Counties to Kinde Road (Sec. 35, T18N, R10E); east on Kinde Road to Highway M–53 (southeast corner Sec. 36, T18N, R12E); north on Highway M–53 to the junction with Highway M–25 (Sec. 30, T19N, R13E); north from that point to the shoreline of Lake Huron and then northwesterly from this point to the point of beginning (tip of Tawas Point in Iosco County).

2. Houghton Lake Area—That area of Roscommon, Missaukee, Kalkaska and Crawford Counties:

Beginning at the intersection of State Highway M–55 and Highway M–76 in Roscommon County (southeast corner Sec. 10, T22N, R1W); north on Highway M–76 to the Village of Roscommon, then west and south on county road 100 to the intersection of county road 104 (Sec. 32, T24N, R3W); west on county road 104 to the intersection of Highway US–27 (Sec. 34, T24N, R4W); north on Highway US–27 to the intersection of Fletcher Road in Crawford County (Sec. 23, T25N, R4W); west and northwest on Fletcher Road to county road 571 in Kalkaska County (Sec. 8, T25N, R6W); south on county road 571 to Highway M–55 in Missaukee County (Sec. 32,

T23N, R6W); then east on Highway M–55 to the point of beginning.

3. Eastern Upper Peninsula Area—That area of Mackinac and Chippewa Counties:

Beginning at the point where the Mackinac Straits Bridge intersects the Lake Huron shoreline of Mackinac County north on Highway I–75 to Highway M–134 (Sec. 4, T42N, R3W); east on Highway M–134 to Highway M–129 (southeast corner Sec. 25, T42N, R1W); north on Highway M–129 to business loop I–75 (Sec. 7, T47N, R1E); north on business loop I–75 to downtown Sault Ste. Marie and extending on a line northward to the International Boundary between U.S. and Canada; east and south along the International Boundary on the St. Mary's River north channel and Lake Huron to a point west of the southwest corner of Cokburn Island (in Canada); west from that point on the International Boundary in Lake Huron to the south tip of Goose Island lying southwest of Marquette Island; continuing southwest in Lake Huron to the southernmost point of Mackinac Island and then west to the point of beginning.

4. Southwestern Michigan Area—That area of Muskegon, St. Joseph, Newago, Ottawa, Allegan, Van Buren, Cass, Kalamazoo, Calhoun, Barry, Ionia, Branch, and Kent Counties:

Beginning at the southwest meandor corner of Sec. 4, T12N, R18W, Muskegon County, west on a line across Lake Michigan to the State boundary between Michigan and Wisconsin; south along the State boundary to a point directly west of the mouth of the Black River (Sec. 9, T1S, R17W) Van Buren County; east along a line to the mouth of the Black River (Sec. 9, T1S, R17W); upstream along the south shore of the Black River to Highway U.S.–31, then southerly along Highway U.S.–31 to Highway M–43 (Sec. 14, T1S, R17W); easterly along Highway M–43 in Van Buren County to the junction with M–40 (Sec. 13, T2S, R14W); southerly along M–40 to the junction of M–216 (Marcellus) (Sec. 1, T5S, R13W) Cass County; easterly along M–216 to junction of U.S.–131 (Sec. 19, T5S, R11W); south on U.S.–131 and Business U.S.–131 to junction with M–60 (Sec. 18, T6S, R11W) St. Joseph County; north on M–60 and M–66 to the junction with I–96 (Sec. 25, T6N, R7W) Ionia County; west on I–96 to the junction with M–37 (Sec. 13, T7N, R12W) Kent County; north on M–37 to 112 Street (north quarter corner Sec. 13, T11N, R13W); west on 112 Street to Warner Road (Sec. 13, T11N, R14W); north on Warner Road to Roth Road (NE corner, Sec. 26, T12N, R14W); west on Roth Road to Maple Island Road to Highway M–20 (southwest corner, Sec. 31, T13N, R14W) and continuing north on M–20 to Skeels Road (northeast corner Sec. 1, T12N, R15W); west on Skeels Road to Nichols Road (Sec. 2, T12N, R16W); south on Nichols Road to Fruitville Road (Sec. 2, T12N, R16W); west of Fruitville Road to Highway U.S.–31 (Sec. 9, T12N, R17W); north on Highway U.S.–31 to Meinert Road (Sec. 4, T12N, R17W); west on Meinert Road to the southwest meandor corner Sec. 4, T12N, R18W (the point of beginning).

5. Southeastern Michigan Area—That area of Shiawassee, Washtenaw, Genessee, Livingston, Oakland, Lenawee, Jackson, Wayne, Ingham, St. Clair, Macomb and Monroe Counties:

Beginning at a point on the Blue Water Bridge at the International Boundary between the United States and Canada (Sec. 35, T7N, R17E) St. Clair County; westerly and south on Highway I–94 in St. Clair, Macomb Counties to the junction with M–59; west on M–59 to the junction with Highway I–75 in Oakland County; northwest along Highway I–75 to the junction with Highway I–69 in Genesee County; southwest along Highway I–69 to the junction with Highway M–52 (Sec. 9, T5N, R2E) Shiawassee County; south on M–52 to the junction with Highway M–36 (Sec. 22, T2N, R2E) Ingham County; west on M–36 to the junction with Highway U.S.–127 (Sec. 6, T2N, R1W) Ingham County; south along U.S.–127 in Ingham and Jackson Counties (through City of Jackson) to the junction with Highway U.S.–12 (Sec. 7, T5S, R1E) Lenawee County; easterly on U.S.–12 to the junction with Highway I–94 (Sec. 18, T3S, R7E) Washtenaw County; easterly on I–94 to the junction with Highway I–275 in Wayne County; southerly along I–275 to the junction with I–75 in Monroe County; southerly along I–75 to the State line (Sec. 5, T17S, R8E); east along the State line between Michigan and Ohio to the shoreline of Lake Erie; northeasterly along the State line to the International Boundary in Lake Erie, northerly along the International Boundary in Lake Erie, the Detroit River, Lake St. Clair and the St. Clair River to the point of beginning.

Minnesota

1. All State Wildlife Management Areas and all Federal Waterfowl Production Areas.

2. On the waters on Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties and within a 150–yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCrescent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the southern and eastern boundaries of the State to the confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

4. *Lac qui Parle Zone:* Beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27, Lac qui Parle County; thence along CSAH 27 to CSAH 20, Lac qui Parle County, thence along CSAH 20 to State Trunk Highway (STH) 40; thence along STH 40 to STH 119; thence along STH 119 to CSAH 34, Lac qui Parle County; thence along CSAH 34 to CSAH 19, Lac qui Parle County; thence along CSAH 19 to CSAH 38, Lac qui Parle County; thence along CSAH 38 to U.S.Highway 75; thence along U.S. Highway 75 to STH 7; thence along STH 7 to CSAH 6, Swift County; thence along CSAH 6 to County Road 65, Swift County; thence along County Road 65 to County Road 34, Chippawa County; thence along County Road 34 to CSAH 12, Chippawa County; thence along CSAH 12 to CSAH 9, Chippawa County; thence along CSAH 9 to STH 7; thence along STH 7 to Montevideo; thence along the municipal boundary of Montevideo to U.S. Highway 212; thence along U.S. Highway 212 to the point of the beginning.

Missouri

Within the following areas on all waters and a 150-yard zone of land within the areas adjacent to these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded lands of all types. Drainage ditches and temporary sheet water more than 150-yards from water areas described above are excluded from the nontoxic shot requirement.

1. Squaw Creek Area: North boundary—Iowa-Missouri State line. East boundary—U.S. Highway I–29. South boundary—St. Joseph, Missouri city limits. West boundary—East bank of the Missouri River.

2. Swan Lake—Fountain Grove Area: North boundary—U.S. Highway 36. East boundary—State Highway 5. South boundary—State Highway 240 and U.S. Highway 65. West boundary—U.S. Highway 65.

3. Upper Mississippi River Area: North boundary—U.S. Highway 36. East boundary—Illinois-Missouri State line. South boundary—North bank of the Missouri River. West boundary—U.S. Highway 61.

4. Montrose—Schell-Osage Area: North boundary—State Highway 7. East boundary—State Highway 13. South boundary—U.S. Highway 54. West boundary—U.S. Highway 71.

5. Duck Creek—Mingo Area: North boundary—State Highway 34. East boundary—State Highways 51, 91, and 25. South boundary—U.S. Highway 62. West boundary—U.S. Highway 67 and State Highway 53.

Wisconsin

1. In that portion of the State lying west of the Burlington Northern Railroad in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties.

2. On all waters in the counties of Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowoc, Marquette, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Waukesha, Winnebago, Washington, Waupaca and Waushara, all of the Wisconsin River in Juneau and Adams Counties, and those portions of Oconto and Marinette Counties east of U.S. Highway 41, and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County islands in Green Bay and within a 150-yard zone of land adjacent to the margins of these waters, except that in the Horicon and Central goose management zones, nontoxic shot will be required for all waterfowl hunting. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above and the open water of Lake Michigan and Green Bay are excluded form the non-toxic shot requirements. All county boundary waters and lakes partially within a steel shot zone are totally included.

3. On any State wildlife area within the zones described in (2), steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas which are not within the zones described in (2): Mead Wildlife Area in Marathon, Wood and Portage Counties, Wood County Wildlife Area and Sandhill Wildlife Area in Wood County, Meadow Valley Wildlife Area in Juneau and Monroe counties.

Central Flyway

Kansas

Barton County: The Cheyenne Bottoms Wildlife Area except the south 200 yards west of U.S. 156 and east of the north-south centerline of S36, T18S, R13W in Barton County and that area west of U.S. 281 commonly known as the inlet canal.

Linn County: All of the Marais des Cygnes Wildlife Areas.

Montgomery County: All of the Elk City Reservoir and Wildlife Area including all lands and waters managed by the U.S. Corps of Engineers and the Kansas Forestry, Fish and Game Commission.

Neosho County: All of the Neosho Wildlife Area.

Reno County: All of the Cheney Reservoir and Wildlife Area including all lands managed by the U.S. Bureau of Reclamation and the Kansas Forestry, Fish and Game Commission. Also, that portion of Quivira National Wildlife Refuge in Reno County.

Stafford County: That portion of the Quivira National Wildlife Refuge in Stafford County.

Rice County: That portion of the Quivira National Wildlife Refuge in Rice County.

Nebraska

Clay and Fillmore Counties and in Kearney and Phelps Counties except on the waters of the Platte River.

New Mexico

That area bounded by a line beginning at the junction of U.S. Highway 60 and Interstate Highway 25 and running south along Interstate 25 approximately 13.5 miles to the San Acacia overpass; thence east along a paved and dirt road to the west bank of the Rio Grande at the San Acacia diversion; thence northeast along the west bank of the Rio Grande to U.S. Highway 60; thence west along U.S. Highway 60 to its junction with Interstate Highway 25.

Texas

That area lying within boundaries beginning at the Louisiana State Line thence westward along Interstate Highway 10 to the junction with Interstate Highway 45 in Houston, thence southward along Interstate Highway 45 to the junction with State Highway 35, thence southwestward along State Highway 35 to the junction with the Brazos River, thence along the eastern shore of the Brazos River to the shoreline of the Gulf of Mexico, thence seaward to the three marine league limit, thence northeastward along the three marine league limit to the Louisiana State Line.

Pacific Flyway

Oregon

Sauvie Island Wildlife Management Area.

Washington

1. Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 538 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

Dated: May 1, 1981.

C. F. Layton,

Action Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-17809 Filed 6-10-81; 12:15 pm]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 113
Friday, June 12, 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

Federal Grain Inspection Service

Official Designation of the Idaho Grain Inspection and Assignment of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the selection of the Idaho Grain Inspection, Pocatello, Idaho, owned by T. Edward Buttars, for designation as the official agency to replace the Idaho Department of Agriculture and also announces assignment of its georgaphic area.

EFFECTIVE DATE: July 1, 1981.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291; therefore, the Executive Order does not apply to this action.

The April 8, 1981, issue of the **Federal Register** (46 FR 21044) contained a Notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to provide official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), for the geographic area serviced by the Idaho Department of Agriculture, Boise, Idaho. Applications were to be postmarked by April 23, 1981. A total of two applications were received. The names of the applicants for designation were as follows: T. Edward Buttars, owner of the Idaho Grain Inspection and Edwin T. Matchey, owner of the Lewiston Grain Inspection Service, Inc., Lewiston, Idaho.

FGIS announced the names of these applicants and requested comments on them in the May 12, 1981, issue of the **Federal Register** (46 FR 26362). A total of 10 comments were received, 6 commentors recommended the designation of T. Edward Buttars; 3 commentors recommended the designation of Edwin T. Matchey. Two of the above commentors and one additional commentor discussed the positive aspects of designating a local owner/operator in Pocatello versus an absentee owner/operator.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, the Administrator, in accordance with Section 7(f)(1)(B), has determined that Idaho Grain Inspection is better able than any other applicant to provide official inspection services in the southern Idaho Area. The area designated to the applicant and described in this Notice constitutes the entire geographic area, which was previously assigned to the Idaho Department of Agriculture, as originally stated in the April 8 Notice. The assignment of geographic area to Idaho Grain Inspection is the southern half of the State of Idaho up to the northern boundaries of Adams, Valley, and Lemhi Counties.

Effective July 1, 1981, the responsibility for providing official inspection services will be furnished by the Idaho Grain Inspection. The designation will terminate November 30, 1982.

A specified service point for the purpose of this Notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency or one or more of its licensed inspectors is located. In addition to the specified service point within the assigned geographic area, the agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area. The specified service point for the Idaho Grain Inspection will be located at U.S. Highway 30 West, Pocatello, Idaho 83201.

Interested persons may obtain a map of the assigned geographic area by contacting the Idaho Grain Inspection or the Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–8525.

(Sec. 8, Pub. L. 94–582, Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on June 9, 1981.

J. T. Abshier,
Director, Compliance Division.

[FR Doc. 81-17442 Filed 6-11-81; 8:45 am]
BILLING CODE 3410-02-M

Food and Nutrition Service

Determining Eligibility for Special Supplemental Food Program for Women, Infants and Children; Income Poverty Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department is announcing income poverty guidelines to be used by State agencies in determining income eligibility for participation in the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These income poverty guidelines are to be used in conjunction with the final regulation on eligibility criteria published on January 23, 1981, at 46 FR 7846 which implements provisions of Pub. L. 95–627 and Pub. L. 96–499 regarding income criteria standards.

EFFECTIVE DATE: July 1, 1981.

IMPLEMENTATION DATE: The income poverty guidelines issued in this notice must be implemented by August 1, 1981. Due to the delays which have occurred in issuing this notice, the implementation date of July 1, 1981, which was established in the January 23, 1981, regulations to implement the new income guidelines, may not be feasible for all State agencies. Therefore, by August 1, 1981, all State and local agencies must begin applying the new income eligibility standards to all new applicants as well as to all ongoing participants at the time of each participant's next regular certification.

FOR FURTHER INFORMATION CONTACT: Barbara P. Sandoval, Director, Supplemental Food Programs Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–8706.

SUPPLEMENTARY INFORMATION: This notice has been reviewed pursuant to Executive Order 12291 and has been determined to be exempt from the requirements of this order.

Public Law 95–627, enacted on November 10, 1978, requires the Secretary to establish income criteria, along with nutritional risk criteria, to be used in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced price school meals under section 9 of the National School Lunch Act. Under Public Law 96–499, enacted December 5, 1980, that income limit, effective until September 30, 1981, is 195 percent of the Office of Management and Budget (OMB) nonfarm income poverty guidelines for that period, with income determined using the prescribed standard deduction of $960 per household, per year. Assuming that no new legislation is implemented by October 1, 1981, on that date the income limit will be the OMB guidelines adjusted for the increase in the March 1981 Consumer Price Index (CPI) over the CPI for calendar year 1980.

The Department published a final rule on January 23, 1981, implementing the provisions of Public Laws 95–627 and 96–499 to require State agencies to set an income limit on eligibility to participate in the WIC Program. The rule specifies that State agencies shall not set an income limit that is less than the applicable State or local limit(s) for free or reduced price health care, except that the State agency's income standard may not be greater than 195 percent of the income poverty guidelines for each family size with a standard deduction added, nor below 100 percent of the income poverty guidelines. The Department will provide State agencies each year with the maximum and minimum income limits by household size. At this time the Department is publishing the maximum and minimum income limits for the period from July 1 to September 30, 1981. As explained above, under current law, the income limits for WIC Program eligibility will change on October 1. The Department will publish adjusted maximum and minimum income limits for the nine month period beginning October 1 as they are made available.

The first table of this notice contains the income limits by household size for the 48 States, District of Columbia and Territories excluding Guam. Because the income poverty guidelines for Alaska, Hawaii and Guam are higher than for the 48 States, a separate table has been included for the convenience of those State agencies. The second table includes a list of Federal programs whose income or benefits are excluded from consideration as income for the purposes of the WIC Program by legislation authorizing those Federal programs.

Income Poverty Guidelines July 1, 1981

Family size	Poverty level (100 percent)—year	195 percent of poverty level and a standard deduction—year
48 States, District of Columbia, Territories Excluding Guam		
1	4,310	9,360
2	5,690	12,060
3	7,070	14,750
4	8,450	17,440
5	9,830	20,130
6	11,210	22,820
7	12,590	25,510
8	13,970	28,200
For each additional family member add	1,380	2,690
Alaska		
1	5,410	11,750
2	7,130	15,100
3	8,850	18,460
4	10,570	21,810
5	12,290	25,170
6	14,010	28,520
7	15,730	31,870
8	17,450	35,230
For each additional family member add	1,720	3,350
Hawaii and Guam		
1	4,960	10,790
2	6,560	13,970
3	8,140	16,950
4	9,720	20,030
5	11,300	23,120
6	12,880	26,200
7	14,460	29,280
8	16,040	32,360
For each additional family member add	1,580	3,080

Note.—The figures listed under 195 percent of the Poverty Level include the standard deduction. The figures listed under 100 percent of the Poverty Level do not include a standard deduction.

Exclusions From Income

When determining eligibility for the WIC Program, income or benefits from the following programs are excluded from consideration:

(i) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646, section 216).

(ii) Any payment to volunteers under Title II (RSVP, foster grandparents, and others) and Title II (SCORE and ACE) of the Domestic Volunteer Servce Act of 1973 (Pub. L. 93–113, section 404(g)), as amended. Payments under Title I, Part A, (VISTA) to volunteers shall be excluded for those individuals receiving food stamps or public assistance at the time they joined VISTA.

(iii) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94–114, section 6).

(iv) Payments or allowances received pursuant to the Home Energy Assistance Act of 1980 (Public Law 96–223, Title III, Section 313(c)(1)).

(v) Payments received from the youth employment demonstration programs (Public Law 95–524, Title IV, Part A, section 446).

(vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Public Law 94–540, section 6).

(Child Nutrition Amendments of 1978 Pub. L. 95–627, Section 3, 92 Stat. 3614, and Omnibus Reconciliation Act of 1980, Pub. L. 96–499, Section 201, 94 Stat. 2600)

Dated: June 8, 1981.

G. William Hoagland,

Administrator, Food and Nutrition Service.

[FR Doc. 81–17441 Filed 6–11–81; 8:45 am]

BILLING CODE 3410–30–M

Rural Electrification Administration

San Isabel Electric 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 proposed financing assistance by REA for San Isabel Electric Association, Inc., (San Isabel) of Pueblo, Colorado. The financing assistance will enable San Isabel to construct approximately 26.5 km (16.5 miles) of 69 kV transmission line and a distribution substation.

The 69 kV transmission line will be built between Colorado–Ute Electric Association's Walsenburg Substation and the proposed Gardner Substation site located southeast of Gardner, Colorado. San Isabel has prepared a Borrower's Environmental Report (BER) concerning the proposed project. An Environmental Assessment was prepared by REA.

Threatened and endangered species, important farmlands, cultural resources, wetlands, floodplains, and other potential impacts of the project were adequately considered in San Isabel's BER and REA's Environmental Assessment.

Various alternatives to the proposed transmission line and substation were reviewed by REA. The alternatives include no action, undergrounding the 69 kV transmission line, construction for additional feeder lines, alternate connection points, alternate routes and alternate substation locations.

The proposed project is the most viable alternative to deliver power to all

existing and projected loads of San Isabel in Huerfano County.

REA's independent evaluation of the proposed project leads to the conclusion that its proposed financing 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 Environmental Assessment and a review of San Isabel's BER, a FONSI was reached in accordance with REA Bulletin 20–21:320–21, Part One.

Copies of REA's FONSI and supporting documents may be reviewed at or obtained from the office of the Director, Distribution Systems Division, Room 3306, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, and at the office of San Isabel Electric Association, Inc., Enterprise & Aerospace Drive, Pueblo West, Colorado 81002.

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 4th day of June, 1981.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-17385 Filed 6-11-81; 8:45 am]

BILLING CODE 3410-15-M

Tex-La Electric Cooperative of Texas, Inc.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare an Environmental Impact Statement in connection with proposed financing assistance by REA for Tex-La Electric Cooperative of Texas (Tex-La), headquartered in San Augustine, Texas. The proposed financing assistance will be used by Tex-La to obtain a 4.333 percent undivided ownership interest in the Comanche Peak Nuclear Plant Units 1 and 2 (Plant), and a 12 percent ownership interest in the Comanche Peak to Everman 45 mile 345 kV transmission line. The facilities are located in Somervell, Hood, Johnson and Tarrant Counties, Texas.

The Plant consisting of two nuclear powered electrical generating units, rated at 1150 MW (net) each, is under construction by Texas Utilities Generating Company which is acting as Agent for the owners for the construction and operation of the Plant. The Plant is located in Somervell County, Texas, near Glen Rose, Texas. Unit 1 is expected to be in commercial operation in 1982 and Unit 2 in 1984.

The transmission line has been constructed.

A Final Environmental Statement concerning the issuance of a construction permit for the Plant was issued by the Atomic Energy Commission (now the Nuclear Regulatory Commission) in June 1974. The Nuclear Regulatory Commission will issue a second Environmental Statement as part of its operating license review.

Tex-La has prepared a Borrower's Environmental Report concerning the proposed project and an Environmental Assessment was prepared by REA.

The effect of the project on threatened and endangered species, important farmlands, wetlands, floodplains, and historic and archaeological sites is adequately considered in the Tex-La Borrower's Environmental Report and the REA Environmental Assessment.

Other alternatives considered included the following:

a. Continue with full requirement purchases from Texas Power and Light Co.;

b. Construct separate generation resources (coal, nuclear, oil);

c. Participation in units other than the project;

d. Solar, hydro, wind; and

e. Energy conservation and load management.

REA's evaluation of the environmental effects of the proposed participation by Tex-La, which is the preferred alternative, leads it to conclude that the proposed financing assistance to Tex-La would not represent a major Federal action significantly affecting the quality of the human environment.

Based on this independent evaluation, the REA Environmental Assessment, and a review of Tex-La's Borrower's Environmental Report including the support documents listed below, a Finding of No Significant Impact was reached by REA in accordance with Sections IV-B and D of REA Bulletin 20–21.

REA's Finding of No Significant Impact, REA's Environmental Assessment, Tex-la's Borrower's Environmental Report, the Final Environmental Statement and the Operating License Stage Environmental Report may be reviewed in the Office of the Director, Power Supply Division, Room 5168, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 447–6183, or at the office of Tex-La (Mr. John Butts, Manager), P.O. Box 479, San Augustine, Texas 75972, Phone (713) 275–5341.

A copy of REA's Finding of No Significant Impact and the Environmental Assessment 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 8th day of June 1981.

Joe S. Zoller,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 81-17384 Filed 6-11-81; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Dockets 36445, 36538, and Order 81-6-27]

Air Pacific, Inc.; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of June 1981.

By Order 80–5–87, May 13, 1980, we selected WestAir Commuter Airlines, Inc. (WestAir) to provide the essential air service at Chico, California, and established a temporary annual rate of compensation of $186,972, the level WestAir had proposed.[1] We directed our staff to meet with WestAir to arrive at a final rate of compensation, and instructed that the issues to be considered specifically include (1) a review of more current data to determine if any adjustment to projected costs is warranted, (2) the type of rate, *i.e.*, whether or not a fuel cost adjustment should be built into the rate, (3) a payment schedule, and (4) the term of the rate.

Review of Current Data

WestAir's original application (and the temporary rate of compensation) was based upon unit costs experienced in September 1979. WestAir has proposed a final annual rate of $353,664 on the basis of its second quarter 1980 data plus an allowance for security costs incurred beginning in the third quarter of 1980. After reviewing WestAir's proposed final rate, and cost information developed from WestAir's

[1] By Order 80–4–93, April 11, 1980, we defined essential air service at Chico to be two round trips to San Francisco with 160 seats (80 inbound and 80 outbound) each weekday and a total of 160 seats each weekend (page 10). We also stated that a carrier could reduce service at San Francisco by up to one-quarter of the required number of seats in the Chico market if it replaced those seats with service to Sacramento (page 40).

third quarter results by our auditing staff, the subsidy staff conducted an informal rate conference with WestAir where tentative agreement on a final rate of compensation of $327,719 annually was reached.

The bulk of the difference between this and the temporary rate reflects the additional costs of landing fees at San Francisco and new security requirements at Chico and Sacramento. These costs were not anticipated when setting the temporary rate. San Francisco International Airport imposed a $10 landing fee on WestAir on February 1, 1980. With an average of 51 landings per week at San Francisco, the additional annual expense is $26,520. Landing fees at Chico and Sacramento were included in WestAir's estimates of indirect expenses. Security controls were first required at the Sacramento airport in July 1980 and at the Chico airport in August 1980. WestAir has participated in the security program at San Francisco since it first utilized terminal space at the airport and those costs are included in its estimates of indirect expenses. The additional annualized expense for security not included in WestAir's original proposal totals $90,843 and, together with the additional landing fees at San Francisco, accounts for 84 percent of the difference in our estimate here and the rate set in Order 80–5–87. The balance of the increase in compensation ($23,384) is attributable to general inflationary pressures. On the revenue side, we have not adjusted WestAir's original traffic estimate, but have adjusted the revenue estimate to reflect third quarter fares, consistent with the use of third quarter unit costs in calculating expenses.

The agreed rate of annual compensation is based on the operation of 10 nonstop round-trip flights each weekday and a total of 10 nonstop round trips per weekend—eight and one-half to San Francisco and one and one-half to Sacramento. WestAir has not operated this level of service, however, because it has, in essence, scheduled two flights a day between Chico and San Francisco as extra sections. At two times during the day it schedules two flights with the same departure time and operates the second flight only if the first is full.[2] Since it will be compensated only for essential services operated, its actual compensation for the first year of service will fall considerably short of $327,719. For example, for the 10-month period through April 1981, WestAir operated 597,861 aircraft miles, compared with the 736,320 aircraft miles reflected in the rate for that period. As a consequence, rather than receiving $273,099 for that period (10/12ths of the annual rate), WestAir will receive approximately 81 percent of that amount, or $221,036.

[2] While this technically does not meet our essential air service definition, the community has accepted this practice for now.

Payout Formula and Rate Term

One of our concerns in this case is that the high frequency service with eight-seat equipment provided by WestAir is not the most efficient service for a market of this size and distance. Larger aircraft should be less costly to operate, yet still offer a good selection of frequencies. WestAir has indicated that it expects to have such aircraft in operation by the first of next year. For this reason we tentatively approve the agreement reached between staff and WestAir to set the rate only through December 31, 1981. We are limiting the rate period expressely to increase WestAir's incentive to acquire larger aircraft better suited to the needs of serving this market if it expects to continue to provide essential air service. Consistent with this objective, the subsidy payout formula is based on the number of seats provided rather than plane miles operated as used in the existing temporary rate. This provision in the formula will enable WestAir to use larger aircraft sooner, if possible, without either having its subsidy reduced, or necessitating a further adjustment to its rate.

Fuel Adjustment

We tentatively approve the agreement between staff and WestAir to provide for a fuel adjustment. This is consistent with our approach in virtually all other 419 incentive rates established to date, in recognition of the continued unpredictability of fuel prices.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 419,

1. We direct WestAir Commuter Airlines, Inc. to show cause within 10 calendar days from the date of service of this order why we should not set the final rate of compensation for the provision of essential air service at Chico at an annual rate of $327,719 payable as follows: For each calendar month beginning May 1, 1981, during which essential air service miles are flown, the amount of compensation shall be determined by multiplying the available seat miles flown during the month [3] times $.046214.[4] The total cumulative compensation otherwise due and payable to WestAir each month set forth above shall be subject to the condition and limitation that it shall not exceed the daily compensation base rate of $1,047 [5] times the number of days in the month.[6] For its provision of essential air service during July 1, 1980 through April 30, 1981, the Board shall reimburse WestAir in addition to the $133,260 paid under the temporary rate.[7]

	Available seat miles
Chico-San Francisco = 153 miles × 17 flights per day × 8 seats × 313 (service days per year) =	6,512,904
Chico-Sacramento = 77 miles × 3 flights per day × 8 seats × 8 seats × 313 (service days per year) =	578,424
Total	7,091,328

2. The rate determined in paragraph 1 will expire December 31, 1981;

3. Each month, the rate determined in paragraph 1 shall be adjusted in accordance with Appendix B;

4. In the event that application of the formula in paragraph 3 results in greater compensation than determined in paragraph 1, the full amount of the difference shall be added to the next scheduled monthly payment;

5. In the event that application of the formula in paragraph 3 results in less compensation than determined in paragraph 1, the full amount of the difference shall be deducted from the

[3] The available seat miles flown shall be computed on the direct airport-to-airport mileage between Chico and San Francisco (153 miles) and Chico and Sacramento (77 miles) on each revenue trip operated over essential air service routes including all revenue trips operated as extra sections.

[4] Annual compensation ($327,719) divided by annual available seat miles (7,091,328). Annual aircraft seat miles have been calculated as follows:

Chico = San Francisco = 3,586 departures × 153 miles × 8 seats =	4,389,264
Chico = Sacramento = 639 departures × 77 miles × 8 seats =	393,624
Total	4,782,888

[5] Annual compensation ($327,719) divided by total annual service days, counting weekend periods as single days (313).

[6] For weekends that fall into two separate calendar months, both weekend days will be considered as part of the later month for the purpose of calculating both monthly compensation and the monthly compensation ceiling.

[7] Total available seat miles operated during this period (4,782,888) times $.046214. Available seat miles are computed as follows:

next scheduled monthly payment; if such scheduled payment is less than the difference, the carrier shall make a lump-sum restitution of the remainder within 30 days; however, in exceptional circumstances an alternative repayment schedule may be approved by the Board's Comptroller; and

6. We will serve a copy of this order upon WestAir Commuter Airlines, Inc.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[8]

Secretary.

Appendix A.—WestAir's Rate of Compensation at Chico

	Per order 80-5-87 [1]		Per WestAir's letters of Aug. 19, 1980 and Feb. 4, 1981 [1]		Per BDA [1]	
	Annual compensation	Cost per block hour	Annual compensation	Cost per block hour	Annual compensation	Cost per block hour
Annual block hours		[2] $6,240		[2] $6,240		[2] $5,828
Direct operating expenses:						
Flying operations	$229,516	36.78	$319,987	51.28	$238,831	[3] 40.98
Fuel and oil	337,428	54.08	307,258	49.24	269,895	[10] 46.31
Maintenance	257,690	41.30	260,333	41.72	215,651	[11] 37.00
Rentals	144,144	23.10	177,091	28.38	139,872	[12] 24.00
Total directs	968,778	155.25	1,064,669	170.62	864,249	148.29
Indirect operating expenses:						
Security					92,414	[13] 13.86
Landing fees					41,683	[14] 7.15
Stations					230,381	[15] 39.53
Reservations/sales/advertising					185,340	[16] 31.80
General and administrative					261,599	[17] 44.89
Total indirects	467,121	74.86	[6] 673,209	107.89	811,417	139.23
Total operating expenses	1,435,899	230.11	1,737,878	278.51	1,675,666	287.52
Passenger revenue	[3] 1,294,825		[3] 1,442,263		[7] 1,403,657	
Cargo revenue	[4] 25,896		[4] 28,845		[4] 28,073	
Total revenue	1,320,721		1,471,108		1,431,730	
Operating loss	115,178		266,770		243,936	
Return	[5] 71,794		[5] 86,894		[5] 83,783	
Compensation requirement	186,972		353,664		327,719	
Compensation per passenger	6.24		11.81		10.94	

[1] Costs in Order 80-5-87 were based upon WestAir's unit costs experienced during September, 1979; costs in WestAir's letter of 8/19/80 were based upon Second Quarter 1980 costs; Board's unit costs are based upon WestAir's audited Third Quarter 1980 data.

[2] Based upon 10 roundtrips between Chico and San Francisco at one block hour per flight, 6 days per week.

[3] Based upon a 60 percent load factor and a resultant forecast of 29,952 passengers annually. The fares used in estimating revenue in Order 80-5-87 were the February, 1980 fares ($46.22/$34.26 for coach/discount fares); WestAir used the July 1980 fares ($53.70/$37.96 for coach/discount fares) in estimating revenue in its August 19, 1980 letter.

[4] At 2% of passenger revenue.

[5] At 5% of expenses.

[6] In its letter of August 19, 1980, WestAir estimated indirect operating expenses at $595,209. However, it's letter of February 4, 1981, estimated an additional expense of $78,000 annually in security costs.

[7] Board's revenue estimate is lower than WestAir's revised estimate due to our inclusion of lower fared Chico-Sacramento traffic (WestAir's revenue estimate includes only Chico-San Francisco traffic). We have accepted WestAir's traffic estimate of 29,952 passengers per year. The fares ($51.65/$37.96 for Chico-San Francisco coach/discount fares; $41.48/$28.70 for Chico-Sacramento coach/discount fares) we have used in estimating revenue are weighted average third-quarter 1980 fares (times a dilution factor of 4 percent for coach fares only).

[8] BCAA audit reported that WestAir has been performing an average of 15% of its nonstop flights from Chico to Sacramento rather than San Francisco. Flight time between the two cities is approximately .56 block hour and this adjustment to total annual block hours is reflected here.

[9] The difference in our and WestAir's unit costing is due basically to WestAir's inclusion of dispatch salaries and fringes in this cost category. BDA has included these expenses in indirect (stations) costing.

[10] Per BCAA audit.

[11] WestAir's maintenance cost per block hour was $39.00 during July 1980—October 1980. Beginning November 1980, the block-hour cost decreased by $3 due to an increase in TBO's (time between overhauls) from 1,400 to 1,600 hours. The annualized weighted cost would be $37.00 per block hour.

[12] WestAir's initial rental expense ($22 per block hour) was based upon a monthly cost of $4,000 at an average utilization of 200 hours per month times an annual inflation rate of 10 percent. Per BCAA audit, the average actual monthly lease expense is $4,355 at a utilization of 181.5 hours.

[13] At $14.81 per average weighted departure.

[14] At $6.66 per average weighted landing.

[15] At $36.92 per average weighted departure.

[16] 4,241,188 revenue-passenger miles times $.04370 per revenue-passenger mile (per audit).

[17] 7,091,328 available seat miles times $.03689 per available seat mile (per audit).

Appendix B—WestAir Commuter Airlines, Inc., Fuel Cost Adjustment

At the end of each month, WestAir will supply the Board's staff with the number of gallons of fuel purchased for use on the Chico-San Francisco/Sacramento route during that month, and the aggregate cost of that amount of fuel. A per-gallon price will be determined from this information to be used in comparison with the base price of $1.45 per gallon that was used in computing WestAir's overall rate of compensation. If the resultant cost is greater than or less than $1.45 per gallon, the cost differential will be multiplied by 73.7292 yielding the increased/decreased fuel cost that will be recognized and paid to or by WestAir on a daily basis.[9]

[FR Doc. 81-17460 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

[8] All Members concerned.

[9] In determining the percentage of any increased fuel cost that we will pay to WestAir, we have assumed that any increase in the cost of fuel which will not be covered by increased revenues will be to the same extent that total expenses in the basic rate of compensation ($1,675,666 annually) are not covered by total revenues ($1,431,730 annually) *i.e.*, 14.5576 percent. We will then pay 85 percent of the increased fuel cost not covered by increased revenues, or 12.3740 percent. (Implicit in this calculation is our desire that the users of WestAir's Chico service be required to pay some portion of the increased fuel cost, presumably through increased fares.) In order to pay the increased fuel cost (which will be determined on a per-gallon basis) on the same basis as the basic rate (which has been determined on an annual basis) we have constructed a factor of 73.7292 which has been derived by multiplying WestAir's Cessna 402 hourly burn rate of 32 gallons by 18.62 (block hours per day) by 12.3740 percent (the amount of increased fuel costs for which we will reimburse the carrier). We will then reimburse the carrier for the product of the increase in fuel cost per gallon times the factor of 73.7292 times the number of days per month. (Total weekend service is to equal one weekday's service. In essence, we will consider WestAir's service to equal six days of service per week. For weekends that fall into two separate calendar months, both weekend days will be considered as part of the later month for the purposes of calculating the monthly fuel adjustment.)

If the fuel cost per gallon should decrease, WestAir will reimburse us for the product of the cost differential times 73.7292 times the number of days per month. This amount will then be deducted from the next scheduled monthly payment; however, if the next scheduled monthly payment would be less than this product, WestAir will be responsible for making a lump-sum restitution to us for the remainder within 30 days; however, in exceptional circumstances, an alternative repayment schedule may be approved by the Board's Comptroller.

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended June 5, 1981

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
June 1, 1981	39675	Air Tungaru Corporation, c/o Morris R. Garfinkle, Galland, Kharasch, Calkins & Short, 1054 Thirty-first Street, N.W., Washington, D.C. 20007. Application of Air Tungaru Corporation, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, requests modification of its route authority to permit operations between Honolulu, Hawaii and a point or points in the Republic of Kiribati (including Christmas Island) and beyond the Republic of Kiribati to Papeete, Tahiti. Conforming Applications, motions to modify scope, and Answers may be filed by June 29, 1981.
June 2, 1981	39676	Sky West Aviation, Inc. d/b/a/ Sky West Airlines, P.O. Box T, St. George, Utah 84770. Application of Sky West Aviation, Inc. d/b/a Sky West Airlines pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment of its Certificate of Public Convenience and Necessity, authorizing it to engage in air transportation with respect to persons, property and mail to add 23 new cities so that the new certificate would read as follows: The terminal point: *Cedar City, Utah The intermediate points: Alamosa, CO, Albuquerque, NM, Boise, ID, Cortez, CO, Denver, CO, Durango, CO, El Centro, CA, Elko NY, Ely, NV, Farmington, NM, *Flagstaff, AZ, Gallup, NM, Grand Junction, CO, Idaho Falls, ID, Jackson Hole, WY, Lake Havasu, AZ, *Las Vegas, NV, Los Angeles, CA, *Page, AZ, Palm Springs, CA, *Phoenix, AZ, *Pocatello, ID, Reno, NV, Rocksprings, WY, *St. George, UT, San Diego, CA, Twin Falls, ID, Vernal, UT, Yuma, AZ. *Cities already on existing certificate and the terminal point: *Salt Lake City, Utah, subject to the terms, conditions and limitations contained in Order 81-2-102. Conforming Applications, motions to modify scope, and Answers may be filed by June 30, 1981.
June 2, 1981	39679	Action Air Cargo Corporation, c/o Stephen A. Alterman, Haffer & Alterman, 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036. Application of Action Air Cargo Corporation pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests that it be granted a certificate of public convenience and necessity authorizing Action Air to provide foreign charter transportation of property and mail between any point in any state of the United States or the District of Columbia or any territory or possession of the United States, and points in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as, and including, India. Conforming Applications, motions to modify scope, and Answers may be filed by June 30, 1981.
June 5, 1981	39693	Golden West Airlines Co., 4200 Campus Drive, P.O. Box 1877, Newport Beach, California 92663. Application of Golden West Airlines Co. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests that its certificate of public convenience and necessity for Route 201 be amended so as to authorize nonstop carriage of persons, property, and mail between the points Santa Barbara, California (SBA) and San Francisco, California (SFO); and between San Francisco, California (SFO) and Lake Tahoe, California (TVL). Conforming Applications, motions to modify scope, and Answers may be filed by July 3, 1981.
June 1, 1981	39647	Sea Airmotive, Inc., P.O. Box 6003, Anchorage, Alaska 99502. Amended Application of Sea Airmotive, Inc. amends the Certificate of Service List. Any person wishing to support or oppose this application whose name is marked with an asterisk (*) on the Amended Service List must, by June 29, 1981, file an answer describing its position and serve a copy on all persons served with this Application.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-17481 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-6-47]

Fitness Determination of AeroMech Airlines, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 81-6-47, Order to Show Cause.

SUMMARY: The Board is proposing to find that AeroMech Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended; that it is capable of providing reliable essential air service; that it is fit, willing and able to provide scheduled air transportation under its existing 401(d)(5) dormant route certificate; and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than June 25, 1981, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Essential Air Services Division, Room 921, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A of Order 81-6-47.

FOR FURTHER INFORMATION CONTACT: Mr. B. A. Calure, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5348.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-6-47 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-6-47 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 5, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-17479 Filed 6-11-81; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Ohio Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on June 27, 1981, at Holiday Inn, 800 West 8th, Room Parlor C, Cincinnati, Ohio 45203. The purpose of this meeting is to report on the followup activities to the Police-Community Relations Study in Cincinnati; staff report on education services to Hispanic children in Leispic school system and to discuss problems of bigotry and violence in Ohio.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Henrietta H. Looman, 1222 Woodland Avenue, NW., Canton, Ohio 44703, (216) 454-2278 or the Midwestern Regional Office, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 335-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 9, 1981.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 81-17449 Filed 6-11-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of

concern to the Department. (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: July 1, 1981, at 1:00 p.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., N.W., Washington, D.C.

agenda

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on the current work program of the subcommittees:
(a) Technology Transfer;
(b) Foreign Availability;
(c) Hardware; and
(d) Licensing Procedures.

Executive Session

(4) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: June 8, 1981.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 81-17456 Filed 6-11-81; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

TIME AND PLACE: July 1, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA: *General Session.*

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Pending items of business:
(a) Licensing requirements for computer software.
(b) Review of the standard formatting of license applications. (Computer systems parameters sheets)
(c) Pre-evaluation and use of precedent decision in the processing of license applications; a discussion.
(d) Other items of old business.

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

Dated: June 8, 1981.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 81-17457 Filed 6-11-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of agency decision to close out files pertaining to certain claims filed under title IV, Outer Continental Shelf and Lands Act Amendments of 1978, as amended (title IV).

SUMMARY: Notice is given that the Agency has closed out the files with regard to the following claims brought under Title IV, and will take no further action in their regards because the claimants have failed to respond in timely fashion to notices of deficiencies in the claims as filed.

CLAIM NUMBERS AND DATES OF FILING:

FCF–04–79, February 13, 1979.
FCF–05–79, February 5, 1979.
FCF–08–79, February 6, 1979.
FCF–12–79, March 2, 1979.
FCF–14–79, March 2, 1979.
FCF–15–79, January 28, 1980.
FCF–20–79, February 27, 1980.

ADDRESS: NOAA Office of General Counsel (GCEL), Room 275, Page 1 Building, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or Harry Feehan at the above address (telephone: 202–254–8350).

SUPPLEMENTARY INFORMATION: Title IV (43 U.S.C. 1841) established the Fishermen's Contingency Fund from which the Secretary of Commerce is authorized to compensate commercial fishermen for damage to, or loss of, fishing gear and for any resulting economic loss due to activities related to oil and gas exploration, development, and production on the Outer Continental Shelf.

In pertinent parts, the regulations implementing Title IV (50 CFR 296) declare as follows. A claim brought under Title IV must contain certain

specified information (50 CFR 296.7 (e)), the Chief, Financial Services Division, National Marine Fisheries Service (Chief, FSD), is authorized initially to decide whether a claim contains this information, or so much of it as is throught necessary to process the claim (50 CFR 296.7(e), 296.8(b)(1)). If the Chief, FSD, finds that the claim is incomplete, the claimant must be notified in writing of any deficiencies (50 CFR 296.8(b)(3)(i)). Thereafter, a claimant has 60 days in which to correct the deficiency. If the claimant does not so do within 60 days, the claim is not eligible for compensation unless the Chief, FSD extends the 60-day period (50 CFR 296.8(b)(3)(ii)). The General Counsel is authorized to review any determination by the Chief, FSD, with regard to a deficiency. If the General Counsel finds that a claim has been abandoned by reason of the claimant's having failed to respond in timely fashion to a notice of deficiency from the Chief, FSD, the General Counsel "may close the file without further action under * * * Part 296" (50 CFR 296.8(d)(1)).

With regard to each of the above claims, the claimant failed to respond to a notice of deficiency within 60 days and, in some cases, within 20 or 30 additional days unilaterally granted by the Chief, FSD. Therefore, the General Counsel has found that these claims have been abandoned within the meaning of 50 CFR 296.8(d)(1), has closed the files on them, and will take no further action in their regards.

Signed at Washington, D.C., this 8th day of June, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 81-17472 Filed 6-11-81; 8:45 am]

BILLING CODE 3510-22-M

Northern Anchovy Fishery; Meeting

AGENCY: National Oceanic and Atmospheric Administration/DOC.

ACTION: Announcement of Public Meeting.

SUMMARY: Representatives of the Pacific Fishery Management Council, members of the Pacific Council's technical advisory bodies and the National Marine Fisheries Service, Southwest Region, will meet and discuss the preliminary biomass estimate and anchovy quota for the 1981–82 fishing season.

DATES: The meeting, which is open to the public, will convene on Monday, July 6, 1981 at 1:00 p.m.

ADDRESS: The meeting will take place at the offices of the California Department of Fish and Game, 350 Golden Shore, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Lorry Nakatsu, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221–6352 or Alan W. Ford, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731 (213) 548–2575.

SUPPLEMENTARY INFORMATION: Section 8.10 of the Fishery Management Plan for the Northern Anchovy Fishery states that the Regional Director, with the assistance of the Southwest Fisheries Center and the California Department of Fish and Game, will determine and announce preliminary estimates of spawning biomass, optimum yield and associated harvest quotas for different sectors of the anchovy fishery. This is done annually in consultation with the Pacific Fishery Management Council and prior to the final establishment of harvest quotas on or about August 1 of each new fishing season.

The preliminary determination of estimated spawning biomass, optimum yield and harvest quotas for the 1981–82 fishing season will be conducted in consultation with representatives of the Pacific Council at a public meeting on July 6. Representatives of the commercial and recreational fishing communities, the California Fish and Game Commission and other interested members of public will have an opportunity to participate in the discussions during a public comment period.

Dated: June 9, 1981.

Terry L. Leitzell,

Assistant Administrator for Fisheries.

[FR Doc. 81-17553 Filed 6-11-81; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Limited Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Beecher Company a limited exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Clot Lysing Timer."

The invention is protected by U.S. Patent Application No. 63,261 (dated August 2, 1979). Copies of the application may be purchased from NTIS, Springfield, VA 22161 at five dollars per copy. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Health and Human Services. Custody of the right to license this invention will be transferred to the Secretary of Commerce.

The availability of this invention for licensing was announced in the Federal Register (45 FR 13170, February 28, 1980) *Government Inventions for Licensing* (February 19, 1980); and the Patent and Trademark Office's *Official Gazette* (April 15, 1980). To date, these and other promotional efforts have not resulted in any applications for nonexclusive licenses under this patent. The proposed limited exclusive license will be royalty-bearing and will expire five years from the date of first commercial sale. The terms and conditions of the license will comply with 35 U.S.C. 209 (Public Law 96–517) and 41 CFR 101–4.1.

The proposed license may be granted unless, within sixty days from the date of publication of this Notice, NTIS receives (1) an application for a nonexclusive license from a responsible applicant intending to practice the invention in the United States and NTIS determines that such applicant is likely to bring the invention to the point of practical application within a reasonable period of time; or (2) written evidence and argument which establishes that the grant of the proposed limited exclusive license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed limited exclusive license must be submitted to the Office of Government Inventions and Patents, NTIS, Springfield, VA 22161. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter (including the basis therefor).

Dated: June 5, 1981.

Douglas J. Campion,

Liaison Officer.

[FR Doc. 81-17468 Filed 6-11-81; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Additions

AGENCY: Committee for purchase from the blind and other severely handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1981 commodities to be

produced by and a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: June 22, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On April 10, 1981, March 20, 1981 and March 27, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 21407, 46 FR 17825, and 46 FR 19017) of proposed additions to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1981:

Class 5510

Lath, Wood
5510–00–NSH–0002 (⅜" x 1½" x 36")
5510–00–NSH–0003 (⅜" x 1½" x 48")
(Requirements for U.S. Forest Service in the States of Washington and Oregon only)
Stake, Wood
55–00–NSH–0001 (⅜" x 1½" x 24")
(Requirements for U.S. Forest Service in the States of Washington and Oregon only)

Class 6530

Litter, Folding
6530–00–783–7905

Class 9905

Tree Shade
9905–00–NSH–0001
(Requirements for U.S. Forest Service in the States of Washington and Oregon only)

SIC 7699

Sponge Rubber Mattresses Rehabilitation
26 x 72½ x 3"
26 x 76½ x 3"
28 x 76 x 4"
28 x 76 x 6"
34¾ x 76 x 6"
24 x 73 x 4½"
24 x 76 x 4½"
26 x 76 x 4½"
(Requirements for GSA Region 3 only)

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 81-17440 Filed 6-11-81; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of the committee: Army Science Board (ASB)
Dates of meeting: 9–10 July 1981
Place: Applied Physics Laboratory, Laurel, MD
Time: 0830–1630 Hours, 9–10 July 1981—Closed
Proposed agenda: The ASB Ad Hoc Sub-Group on "Testing of Electronic Systems" will receive classified briefings and hold discussions to assist them in their examination of the overall facets of this subject. Specifically, the group will address the adequacy of Army concepts, plans and equipments for the testing of modern command, control and communications intelligence and computer-based systems.

This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and non-classified mattes to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Roger W. Mickelson,
Colonel, GS, Executive Director.

[FR Doc. 81-17417 Filed 6-11-81; 8:45 am]
BILLING CODE 3710-08-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, June 17, 1981, commencing at 1:30 p.m. The hearing will be a part of the Commission's regular June business meeting which is open to the public. Both the hearing and the meeting will be held in the Goddard Conference Room at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Pennsylvania Department of Environmental Protection, Bureau of Design (D 81–34 CP).* Replacement of Dam 7 of the Lehigh Canal System in the City of Allentown, Lehigh County, Pa. The new dam will replace a rockfilled timber crib dam that was destroyed by ice in February 1981. The dam will be maintained by the City of Allentown.

2. *Sun Oil Company (D–75–74 (Rev.).* Process wastewaters have been segregated and are conveyed to the regional waste treatment facility. The remaining discharge consists of cooling water and surface runoff at the Company's Marcus Hook Refinery in Marcus Hook Borough, Lower Chichester Township, Delaware County, Pa. About 80 million gallons per day of once-through cooling water and non-contaminated storm water discharge to Middle Creek, a tributary of the Delaware River. No new facilities will be constructed.

3. *Delmarva Power & Light Company (D–81–20).* Modifications to an existing industrial waste treatment facility at the Company's Edge Moore Power Plant in New Castle County, Del. Existing treatment facilities will be modified to handle up to 200,000 gallons per day of coal pile rain water runoff. Treated effluent will discharge to the Delaware River.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

W. Brinton Whitall,
Secretary.

June 3, 1981.

[FR Doc. 81-17418 Filed 6-11-81; 8:45 am]
BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Law School Clinical Experience Program; Closing Date for Transmittal of Applications for New Projects for Fiscal Year 1981

Applications are invited for projects under the Law School Clinical Experience Program.

Authority for this program is contained in Title IX, Part E of the Higher Education Act of 1965, as amended by Pub. L. 96–374. (20 U.S.C. 1134n–1134p)

This program issues awards to accredited law schools.

The purpose of the Law School Clinical Experience program is to establish or expand projects at accredited law schools to provide supervised clinical experience to students in the practice of law.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by July 24, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of

Education, Application Control Center, Attention: 84.097, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information—1. *Eligible Applicants.* Only accredited law schools or combinations or consortiums of accredited law schools may apply for awards. (20 U.S.C. 1134n(d))

2. *Funding Criteria.* A Notice of proposed Rulemaking for the Law School Clinical Experience Program was published in the **Federal Register** at 45 FR 86890 (December 31, 1980). The notice includes proposed selection criteria to be used in evaluating applications.

Available Funds: Under the second Continuing Resolution $3 million is available for this program for fiscal year 1981.

Application Forms: Application forms and program information packages are expected to be ready for mailing by June 4, 1981. They may be obtained by writing to the Graduate Programs Branch, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the criteria, instructions, and forms included in the program information package.

Applicable Regulations: The following regulations are applicable to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Program) and 34 CFR Part 77 (Definitions).

(b) When they are adopted in final and become effective, the proposed regulations published in the **Federal Register** on December 31, 1980, at 45 FR 86890.

Further Information: For further information contact: Dr. Donald N. Bigelow, Chief, Graduate Progams Branch, U.S. Department of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2347. (20 U.S.C. 1134n-1134p)

(Catalog of Federal Domestic Assistance Number 84.097, Law School Clinical Experience Program)

Dated: June 1, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-17455 Filed 6-11-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Atlantic Richfield Co.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of proposed remedial order to Atlantic Richfield Company and Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Department of Energy (DOE), gives notice that a Proposed Remedial Order (PRO) was issued on May 15, 1981 to Atlantic Richfield Company (ARCO), 515 South Flower Street, Los Angeles, California 90017, and that any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before June 27, 1981.

By this PRO, OSC sets forth proposed findings of fact and conclusions of law concerning ARCO's pricing of imported crude oil purchased in transactions between affiliated entities under the refiner price rules in 10 CFR Part 212, Subpart E between August 1973 and December 1980. ARCO is charged with overstating its increased costs of crude oil by approximately $167 million in violation of 10 CFR 212.83 and 212.126(b). Specifically, ARCO is charged with improperly revising its May 1973 costs of imported crude oil purchased in affiliated transactions.

A refiner is required by § 212.83(b) to calculate and report these May 1973 costs in accordance with its customary accounting procedures generally accepted and consistently and historically applied by the firm concerned. In October 1974, § 212.83 was amended and § 212.84 added, to require that a refiner set costs in months of measurement for imported crude oil purchased in affiliate transactions at prices which would prevail if the affiliated entities had consistently and continuously dealt with each other at arms length. Because this revision to the price regulations was applicable only to months of measurement, ARCO may not revise its May 1973 costs of imported crude oil to reflect other than its customary accounting procedure.

As a remedy, ARCO is directed to recompute its increased costs of imported crude oil for all months of measurement utilizing May 1973 costs which are based upon its customary accounting procedures.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Freedom of Information, Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, D.C. 20850.

Aggrieved persons may object to this Proposed Remedial Order by filinga "Notice of Objection to the Proposed Atlantic Richfield Company, Remedial Order." The Notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filed with: Office of Hearings and Appeals, Department of Energy, 2000 M Streets, NW., Room 8014, Washington, D.C. 20461.

The Notice must be filed, in duplicate, by 4:30 p.m. EDT on or before June 27, 1981 or the first federal workday thereafter. In addition, a copy of the Notice of Objection must, on the same day as filed, be served on ARCO and on each of the following persons, pursuant to 10 CFR 205.193(c):

Richard H. Koebert, Audit Manager, Pacific District Office of Special Counsel, 1340 West Sixth Street, Room 233, Los Angeles, California 90017.

George Kielman, Associate Solicitor, Office of Special Counsel, Department of Energy, 12th and Pennsylvania Avenue, NW., Mail Stop 4111, Washington, D.C. 20461.

No data or information which is confidential shall be included in any Notice of Objection.

Issued in Washington, D.C., on the 1st day of June 1981.

Avrom Landesman,

Acting Special Counsel.

[FR Doc. 81-17500 Filed 6-11-81; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(a)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), notice is hereby provided of the following meetings:

I. A joint meeting of Subcommittees A and C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on June 17 and 18, 1981, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:00 a.m. on June 17. The agenda for the meeting is as follows:

1. Report by IEA Secretariat on Governing Board meetings on June 3 and June 15, 1981.
2. U.S. Plan of Action.
3. Type 1/Type 2 transactions.
4. Pricing in an emergency.
5. Principles of data reporting.
6. Future work program.

II. A meeting of Subcommittee C of the IAB to the IEA will be held on June 18 and 19, 1981, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at the conclusion of the previously mentioned joint meeting of IAB Subcommittees A and C. The agenda for the meeting is as follows:

1. Application for legal clearance under Treaty of Rome.
2. Future work program.

As permitted by 10 CFR 209.32, the usual 7-day notice period has been shortened because unanticipated procedural delays prevented processing in sufficient time to provide such notice.

Issued in Washington, D.C., June 7, 1981.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 81-17609 Filed 6-11-81; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Blackwood & Nichols Co., Ltd.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to excute a Consent Order and provides on 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.

EFFECTIVE DATE: May 20, 1981. Comments by: July 13, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone: 214/767-7745.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 5228, Dallas, Texas 75235, phone: 214/767-7745.

SUPPLEMENTARY INFORMATION: On May 20, 1981 the Office of Enforcement of the ERA executed a Consent Order with Blackwood & Nichols Co., Ltd. of Oklahoma City, Oklahoma. Under 10 CFR 205.199J(b) a Consent Order which involves a sum of $500,000 or less in the aggregate excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Blackwood & Nichols wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with B&N effective as of the date of its execution by the DOE and B&N.

I. The Consent Order

Blackwood & Nichols Co., Ltd., (B&N) is a firm engaged in the production of crude oil and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of B&N the Office of Enforcement, ERA and B&N entered into a Consent Order, the significant terms of which are as follows:

1. During the period September 1, 1973 through January 27, 1981 B&N allegedly sold crude oil above the allowable prices specified at 10 CFR Part 212, Subpart D.

2. B&N and the DOE have agreed to a settlement of $160,000. This amount will be refunded by B&N within 30 days of the effective date of the Consent Order. The negotiated settlement was determined to be in the public interest as well as the best interest of the DOE and B&N.

3. This Consent Order constitutes neither an admission by B&N that ERA regulations have been violated nor a finding by the ERA that B&N has violated ERA regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, B&N agrees to refund in full settlement of any civil liability 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 $160,000 in the manner specified in I.2. above. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. The 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 overcharges 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 overcharges 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 overcharges 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).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a protion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification of 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 generl 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 comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767–7745.

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 the Blackwood & Nichols Co., Ltd. Consent Order". We will consider all comments we received by 4:30 p.m., local time, (30 days after publication). 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 Dallas, Texas on the 27th day of May, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-17498 Filed 6-11-81; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. PP-55-A]

Roseau Electric Cooperative; Application for Amendment of Authority To Export Electric Energy

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for amendment of authorization to export electric energy across United States/Canadian border by the Roseau Electric Cooperative.

SUMMARY: Roseau Electric Cooperative has filed an application in Docket No. PP–55–A for amendment of authority, pursuant to Section 202(e) of the Federal Power Act, to export increased amounts of electric energy across the United States/Canadian Border to the Northwest Angle Indian Reserve No. 33, Province of Ontario, Canada.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch (EP), Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3825

Lise Courtney M. Howe, Office of General Counsel GC–11, Department of Energy, Room 5E–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2900

SUPPLEMENTARY INFORMATION: On May 6, 1981, the Roseau Electric Cooperative (Roseau) filed an application in Docket No. PP–55–A with the Department of Energy (DOE) pursuant to the provisions of section 202(e) of the Federal Power Act and Title 10 of the Code of Federal Regulations, sections 205.300–.309, for an amendment to its authority to export electric energy to Canada from the United States through facilities at the international boundary.

Roseau originally was authorized, in Federal Power Commission Docket No. E–8361, to export electric energy to Canada in an amount not to exceed 90,000 kilowatt hours (kwh) annually at a rate of transmission not to exceed 37.5 kilowatts (kw). Roseau now requests an increase in its authorization to export 2,000,000 kwh annually at an increased rate of 600 kw.

In its application Roseau states that the consumers on the line, residents of the Northwest Angle Indian Reserve No. 33, wish to increase their electrical requirements. Roseau's existing electrical facilities have a capacity of 2,628,000 kwh annually at a rate of 600 kw, so that no modifications of the existing facilities would be required.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with §§ 1.8 or 1.10 of the Rules of Practice and Procedure (18 CFR 1.8 and 1.10).

Any such petitions and protests should be filed on or before June 22, 1981. Protests will be considered by DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with DOE and will, upon request, be made available for public inspection and copying at the DOE Docket Room, Room B–210, 2000 M Street, N.W., Washington, D.C. and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Dated: June 5, 1981.

Barton R. House,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 81-17499 Filed 6-11-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of May 18 Through May 22, 1981

During the week of May 18 through May 22, 1981, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purpose of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 5, 1981.

Gulf Oil Corporation, Houston, Texas, BEE–1244, motor gasoline

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR 212.83(h), the equal application rule. The

exception request, if granted, would permit Gulf to calculate its unrecouped increased costs of motor gasoline on the basis of the maximum price permitted by a Chicago Ordinance for its self-service sales rather than on the maximum price permitted under DOE regulations. On May 18, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be dismissed for the period of November 1, 1980 through January 27, 1981 and denied for the period prior to November 1, 1980.

L.E. Jones, Production Company, Duncan, Oklahoma, BEE-0292, reporting requirements

L.E. Jones Production Company filed an Application for Exception from the reporting requirements set forth in Form EIA-23 in which the firm sought to be relieved of its obligation to prepare and submit to the DOE the gross working interest data required by schedule 1 of Form EIA-23. On May 19, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

U.S. Oil and Refining Co., Washington, D.C., BEE-1418, crude oil

U.S. Oil and Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The exception request, if granted, would permit U.S. Oil to receive additional entitlements benefits to reduce the average cost to the firm of the light crude oil which it imports from Indonesia. On May 19, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 81-17401 Filed 6-11-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PH-FRL-1851-6; OPP-66082]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: this notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: July 13, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm 516, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7121).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
239-2238	Ortho Spot Weed & Grass Killer	Chevron Chemical Company, Ortho Division, 940 Hensley Way, Richmond, CA 94801.	Aug. 31, 1967.
422-52	Boron Insect Repellent	Standard Oil Company, Midland Building, Cleveland, OH 44115.	June 25, 1971.
539-202	Double Duty Rose Care 6-10-4 with Systemic.	Sears Roebuck & Company, Sears Tower Dept., 766/68th Floor, Chicago, IL 60684.	Dec. 23, 1965.
539-282	Triple Action Rose Food 11-6-4	do	June 11, 1973.
961-267	Rose & Flora Preen 7-8-5 Special Organic Formula.	Lebanon Chemical Corporation, P.O. Box 180, Lebanon, PA 17042.	May 15, 1974.
5535-61	Gro-Well Pro-Tek Systemic Insecticide Granules.	J&L Adikes Inc., 182-12 93rd Avenue, Jamaica, NY 11423.	July 11, 1969.
9663-4	Maleic Hydrazide 30%	Crystal MFG Corporation, 1525 N. Post Oak Road, Houston, TX 77055.	May 25, 1973.
9663-10	Supreme Sucker Ban	do	June 29, 1971.
10659-15	Oxy Alfalfa Plant Food 0-15-30 with 0.25% Phostemic-D.	Occidental Chemical, P.O. Box 1185, Houston, TX 77001.	Mar. 8, 1972.
10659-16	Zipp 7-28-4 with 1.2% Phostemic-D.	do	Jan. 17, 1972.
10659-17	Oxy Alfalfa Plant Food 0-15-30 with 0.50% Phostemic-D.	do	Mar. 9, 1972.
10659-18	Oxy Alfalfa Plant Food 0-15-30 with 0.33% Phostemic-D.	do	Mar. 31, 1972.
10659-19	Zipp 6-13-26 with 0.25% Phostemic-D.	do	June 21, 1972.
10659-20	Zipp 6-13-26 with 0.50% Phostemic-D.	do	Mar. 9, 1972.
10659-21	Zipp 6-26-13 with 0.50% Phostemic-D.	do	Mar. 8, 1972.
10659-22	Zipp 6-26-13 with 0.33% Phostemic-D.	do	Mar. 9, 1972.
10659-23	Zipp 6-13-26 with 0.33% Phostemic-D.	do	Mar. 16, 1972.
10659-24	Zipp 15-15-4 with 0.33% Phostemic-D.	do	May 31, 1972.
10659-25	Zipp 13-13-13 with 0.33% Phostemic-D.	do	Mar. 9, 1972.

The Agency has agreed that such cancellation shall be effective July 13, 1981 unless within this time the registrant or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amendead. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66082]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-106, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: June 4, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-17501 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL-1851-7; OPP-66083]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: July 13, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 516, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7121).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
352-313	Dupont Demosan 10-D Chloroneb Fungicide.	E. I. Dupont de Nemours & Co., Legal Department, D 7045, Wilmington, DE 19898.	Sept. 28, 1965.
352-336	Dupont Demosan 10-G Chloroneb Fungicide.	do	Jan. 31, 1968.
352-359	Dupont Tersan SP-G Turf Fungicide.	do	Feb. 8, 1980.
352-360	Dupont Demosan T Seed Protectant.	do	Oct. 11, 1972.
449-70	Sure Death Brand Milfume No. 66.	Techne Corporation, c/o Farmland Ind., Inc., Agricultural Chemicals Div., P.O. Box 7305, Kansas City, MO 64116.	Aug. 25, 1954.
449-505	Sure Death Brand Milfume No. 2	do	Mar. 14, 1968.
538-79	Proturf Fungicide II	Scott & Sons Company, Marysville, OH 43040.	Aug. 10, 1977.
539-125	Rat and Mouse Bait Station	Sears Roebuck & Co., Sears Tower Dept., 766/68th Floor, Chicago, IL 60684.	Nov. 23, 1974.
7405-49	Chemi-Cap Insect Repellent Pressurized Spray.	Chemical Packaging Corporation, P.O. Box 9947, Ft. Lauderdale, FL 33309.	Apr. 17, 1971.
9606-1	Rat & Mouse Bait with Fumarin	Arrowhead Pest Control, 2026 Winter St., Superior, WI 54880.	Apr. 7, 1967.

The Agency has agreed that such cancellation shall be effective July 13, 1981 unless within this time the registrant or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66083]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: June 4, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-17502 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-32-M

[Docket No. A-80-46; AD-FRL-1852-5]

Conference on Air Quality Modeling

AGENCY: Environmental Protection Agency, Washington, D.C.

ACTION: Notice of Conference.

SUMMARY: EPA announces a public conference on air quality modeling. Such a conference is required by Section 320 of the Clean Air Act to be held every three years. Three years ago when the first conference was held, discussions centered on the topics of modeling for PSD analyses and on EPA's "Interim Modeling Guideline." This year the topics for discussion at the conference will focus on accuracy and the incorporation of model uncertainty in regulatory decision-making. EPA will also consider recommendations for improvements, both in modeling procedures and in regulatory processes, to insure the optimal use of models in all programs utilizing air quality models. Revisions to the Agency's modeling guideline will not be an agenda item.

DATES AND SCHEDULE: The conference will be held August 10, 11, and 12, 1981 (Monday, Tuesday, and Wednesday) from 9:00 a.m. to 5:00 p.m. on August 10 and 11; 9:00 a.m. to noon on August 12. Presentations will be made by EPA, the Electric Power Research Institute (EPRI), and the American Meteorological Society (AMS) on August 10. A panel discussion on model accuracy and the use of models in decision-making will be held that afternoon. Presentations by other governmental agencies will be made beginning in the morning of August 11 and continue until completed. The remainder of the time will be devoted to public comments. Written statements and comments will be accepted until September 14, 1981.

ADDRESSES: The conference will be held at the Thomas Jefferson Auditorium, South Agriculture Building, 14th Street and Independence Avenue, S.W., Washington, D.C.

Additional written statements or comments not presented at the conference should be submitted (duplicate copies are preferred) to: Central Docket Section (A-130), Attention: Docket Number A-80-46, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph A. Tikvart, Chief, Source Receptor Analysis Branch (MD-14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; phone (919) 541-5561 or Charlotte J. Hopper, phone (919) 541-5681.

SUPPLEMENTARY INFORMATION: In an effort to standardize air quality modeling practices within such programs as prevention of significant deterioration (PSD), the Clean Air Act Amendments of 1977 outlines, in Section 320, the requirements for a conference. Section 320 states that a conference is to

be held every three years and will be conducted to address the appropriate air quality modeling necessary to carry out regulatory requirements, especially those relating to PSD. The conference held in December 1977 addressed EPA's "Interim Modeling Guideline" and was devoted almost exclusively to PSD discussions. This year the Guideline on Air Quality Models will *not* be a topic for discussion since it is in the process of revision and will be the subject of a public hearing in 1982. Instead, this conference will address a major problem in the utilization of models in regulatory decision-making: given the accuracy of existing air quality dispersion models, how should decision-makers incorporate that uncertainty in their regulatory programs. EPA welcomes statements and comments on these two topics.

The conference agenda will also include a summary presentation of the activities and findings of a workshop held in May 1981 to discuss model use in regulatory decision-making. Attendees at that workshop included representatives from different industries, public interest groups and all levels of government agencies using air quality simulation models. There will be a panel discussion on the workshop findings.

Additional presentations will include: (1) recent results of the AMS/EPA Cooperative Agreement; (2) a report on the EPRI plume model validation project; (3) EPA research activities; (4) other EPA programs to determine and improve the accuracy of models; and (5) a review of ongoing efforts to consider uncertainty in regulatory programs.

Following these presentations, the conference will be open for statements from the National Academy of Sciences, representatives of state and local air quality management agencies and appropriate Federal agencies, including the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Bureau of Standards and others. Upon completion of these statements and respective comments, the conference chairman will open the conference to statements and comments from the general public.

In order to assist EPA in planning for the conference, persons desiring to attend are asked to notify EPA by July 24, 1981. Notification should be made to Joseph A. Tikvart or Charlotte J. Hopper by mail or by phone at the address and phone number given in the "Further Information" section above. In their notification, persons desiring to speak should identify the organization or corporation (if any) on whose behalf they are entering a statement. Persons submitting by July 24 a notice of intent to attend will receive by mail a copy of the agenda and a summary of the proceedings from the May workshop.

A verbatim transcript of the conference proceedings will be maintained. Speakers are encouraged to bring extra copies of their presentations for the convenience of the reporter, chairman and other participants. Interested persons will be permitted to enter into the record any written comments they do not present orally. The transcript and all written presentations will be maintained in Docket Number A–80–46 in the EPA Central Docket Section.

Dated: June 8, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 81-17503 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-26-M

[AMS-FRL 1851-8]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "Platinum Gasaver"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Platinum Gasaver" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

SUPPLEMENTARY INFORMATION: Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

ORIGIN OF REQUEST FOR EVALUATION: On February 1, 1981, the EPA received a request from Pegusus Enterprises for evaluation of a fuel saving device termed "Platinum Gasaver." This Device is claimed ". . . to improve mileage at least 20% and to cut down on harmful emissions." This device consists of a Gasaver instrument which is filled with 12 ounces of Gasaver solution. A line from the Gasaver instrument is connected to a vacuum line at the base of the carburetor. The Gasaver solution is bubbled at a slow rate into the engine.

AVAILABILITY OF EVALUATION REPORT: An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the Platinum Gasaver Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA–AA–TEB–511–81–14 consisting of 32 pages including all attachments.

Copies of this report may be obtained from the National Technical Information Service by using the above number. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Phone: Federal Telecommunications System (FTS) 737–4650, Commercial: 703–487–4650.

Summary of Evaluation

EPA fully considered all of the information submitted by the Device manufacturer in the Application. The evaluation of the "Platinum Gasaver" device was based on that information. The Applicant submitted no valid data to support the claims for lower emissions or increased fuel economy. The Applicant had been advised by letter on several occasions of EPA's requirement that he submit valid test data following the proper EPA test procedures. The Applicant was unable to provide the required test data. He was advised that EPA was still required to complete the evaluation based on the available information and publish the results. The Applicant indicated he may attempt to get the required data at a later date and resubmit the application.

Therefore, based on the information provided by the Applicant, there is no technical basis to support any claims for a fuel economy improvement or

emissions reduction with the "Platinum Gasaver."

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4299.

Dated: June 4, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-17521 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-26-M

[AMS-FRL 1852-2]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "Petromizer System"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "PETROMIZER SYSTEM" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

BACKGROUND INFORMATION: Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) the effect of any retrofit device on fuel economy;

(2) the effect of any such device on emissions of air pollutants; and

(3) any other information which the Administrator determines to be relevant in evaluating such device."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

ORIGIN OF REQUEST FOR EVALUATION: On January 13, 1981, the EPA received a request from Chandler Associates, Inc. for evaluation of a fuel saving device termed "PETROMIZER SYSTEM." This Device is claimed ". . . to better control exhaust emissions and increase the miles per gallon of automobile engines. This device consists of two units (1) a carburetor base plate adapter which admits additional air and swirls the air-fuel mixture and (2) a fuel line diverter valve to regulate fuel pressure.

AVAILABILITY OF EVALUATION REPORT: An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the PETROMIZER SYSTEM Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA-AA-TEB-511-81-9 consisting of 24 pages including all attachments.

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Phone: Federal Telecommunications System (FTS) 737-4650, Commercial 703-487-4650.

Summary of Evaluation

EPA fully considered all of the information submitted by the Device manufacturer in the application. The evaluation of the "PETROMIZER SYSTEM" device was based on that information. The Applicant submitted the request for evaluation three times. The first and second applications were returned to the Applicant because to honor the confidentiality statements contained in the application would have precluded EPA from conducting a complete evaluation and making it available to the public as required by the Motor Vehicle Information and Cost Savings Act.

The Applicant submitted a third application for evaluation that contained no confidentiality restrictions. However, the Applicant submitted no valid test data to support the claims for increased fuel economy. The Applicant had been advised by letter on several occasions of EPA's requirement that Applicants submit valid test data following the proper EPA test procedures.

Since the Applicant was unable to provide the required test data, the Applicant requested the application be returned. The Applicant stated they would attempt to obtain the required information at a later date and would resubmit the more complete application at some future date. The Applicant was advised that EPA was still required to complete the evaluation based on the available information and publish the results.

Therefore, based on the information provided by the Applicant, there was no technical basis to support any claims for a fuel economy improvement or emissions reduction with the "PETROMIZER SYSTEM."

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4299.

Dated: June 4, 1981.

Edward F. Tuerk,

Acting Assistant Administator for Air, Noise, and Radiation.

[FR Doc. 81-17522 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-26-M

[AMS-FRL 1852-4]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for "ULX-15 and ULX-15D"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "ULX-15 and ULX-15D" additives under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

SUPPLEMENTARY INFORMATION: Section 511(b)(1) and Section 511(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) "Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy, and to determine whether the presentations (if any) made with respect to such retrofit devices are accurate."

(c) "The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together

with the EPA Administrator's conclusions as to—

(1) the effect of any retrofit device on fuel economy;

(2) the effect of any such device on emissions of air pollutants; and

(3) any other information which the Administrator determines to be relevant in evaluating such devices."

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 (44 FR 17946).

ORIGIN OF REQUEST FOR EVALUATION: On January 19, 1981, the EPA received a request from Fuelteck Corporation for evaluation of a fuel saving device termed "ULX-15 and ULX-15D." These Devices are fuel additives that are claimed to improve gasoline and diesel engine combustion and thereby increase fuel economy.

AVAILABILITY OF EVALUATION REPORT: An evaluation has been made and the results are described completely in a report entitled: "EPA Evaluation of the ULX-15 and ULX-15D Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA-AA-TEB-511-81-4, consisting of 21 pages, including all attachments.

Copies of these reports may be obtained from the National Technical Information Service by using the above report number. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Phone: Federal Telecommunications Service (FTS) 737-4650, Commercial (703) 487-4650.

Summary of Evaluation

EPA fully considered all of the information submitted by the device manufacturer in the Application. The evaluation of the "ULX-15 and ULX-15D" additives was based on that information.

The applicant was advised on several occasions of the requirement for submittal of valid test data following the established EPA test procedures. The applicant submitted no valid test data with the application for evaluation. Analysis of the information submitted by the Applicant *did not* prove that the use of "ULX-15 and ULX-15D" would enable a vehicle operator to improve a vehicle's fuel economy.

Thus, there is no technical basis to support any claims for a fuel economy improvement due to the use of the "ULX-15 and ULX-15D" additives.

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4299.

June 5, 1981.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 81-17525 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-26-M

[ER-FRL-1852-6]

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities (A-104), U.S. 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) during the week of June 1, 1981 to June 5, 1981.

Review Periods: The 45-day review period for Draft EISs' listed in this notice is calculated from June 12, 1981 and will end on July 27, 1981. The 30-day review period for Final EISs' as calculated from June 12, 1981 will end on July 13, 1981.

EIS Availability: To obtain a copy of an EIS listed in this notice you should contact the federal agency which prepared the EIS. If a federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA, for further information. 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.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Federal Activities, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 245-3006.

Dated: June 9, 1981.

William N. Hedeman, Jr.,

Director, Office of Federal Activities (A-104).

Department of Agriculture

FS: Draft—Oh-Be-Joyful Wilderness Study Area, Gunnison National Forest, Gunnison County, Colorado; the review period for this EIS has been extended until August 10, 1981 (EIS Order #810449).

Army Corps of Engineers

Draft—Little Arkansas River Basin Flood Control, Rice, McPherson, Reno, Harvey and Sedgwick Counties, Kansas (EIS Order #810429).

Draft—Long Island Sound Dredged Material Disposal, Connecticut, Rhode Island and New York (EIS Order #810428).

Draft—Port of Kalama Marine Industrial Park, Construction and Operation, Cowlitz County, Washington (EIS Order #810447).

Final—Fountain Creek Flood Control, Pueblo and El Paso Counties, Colorado (EIS Order #810436).

Final—Indian River County Beach Erosion Control, Indian River County, Florida (EIS Order #810444).

Final—Grand Haven Harbor Modification, Ottawa County, Michigan (EIS Order #810445).

Final—Lost Creek at Columbus Flood Protection Plan, Platte County, Nebraska (EIS Order #810443).

Final—Green Brook Sub-Basin Flood Control, Somerset, Middlesex and Union Counties, New Jersey (EIS Order #810442).

Final—Mingo Creek Flood Protection, Tulsa County, Oklahoma (EIS Order #810438).

Department of the Army

Final Supplement—Operation RMT, Chemical Material Transport, Utah and Colorado (EIS Order #810450).

Department of the Interior

BLM: Draft—Northern Idaho Grazing Management Program, Idaho (EIS Order #810441).

BLM: Draft—1982 OCS Oil and Gas Lease Sale #68, Pacific Ocean; the review period for this EIS has been extended until August 7, 1981 (EIS Order #810433).

BLM: Draft Supplement—Five Year OCS Oil and Gas Lease Schedule (EIS Order #810446).

Department of Transportation

FHWA: Draft—US 82 and US 84/GA-50 Reconstruction/Relocation, Ware County, Georgia (EIS Order #810434).

FHWA: Final—I-94 Widening/Interchange Modification at Wiard Road, Washtenaw County, Michigan (EIS Order #810430).

FHWA: Final—Marcy-Utica-Deerfield Transportation Study, Oneida County, New York (EIS Order #810440).

FRA: Final—Northeast Corridor Improvement Project, Providence County, Rhode Island (EIS Order #810431).

Environmental Protection Agency

EPA3: Draft—Buckingham Wastewater Treatment Facilities, Grant,

Bucks County, Pennsylvania (EIS Order #810432).

Federal Energy Regulatory Commission

Final Supplement—Rocky Mountain Project, Dam Relocation, License Amendment, Floyd County, Georgia (EIS Order #810439).

Nuclear Regulatory Commission

Draft—Grand Gulf Nuclear Station Units 1 and 2, License, Claiborne County, Mississippi (EIS Order #810448).

Final—Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina (EIS Order #810435).

Tennessee Valley Authority

Correction and waiver: Draft Supplement—Murphy Hill Site Coal Gasification Demonstration Plant, Marshall County, Alabama; this EIS should have appeared in the Federal Register dated June 5, 1981 and has received a reduction of the review period. The comment period will begin on June 5, 1981 and terminate on July 1, 1981 (EIS Order #810451).

[FR Doc. 81-17548 Filed 6-11-81; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-367; File No. 21619-CD-P-(3)-79; et al.]

Empire Mobilcomm Systems, Inc., et al.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of empire Mobilcomm Systems, Inc., for a construction permit to establish additional facilities to operate Station KOK419 on frequencies 454.150 and 454.250 MHz and to increase the power of its existing facility operating on frquency 454.300 in the Domestic Public Land Mobile Radio Service (DPLMRS) at Salem, Oregon, CC Docket No. 81-367, File No. 21619-CD-P-(3)-79; Mobile Radio Communication Service, Inc., for a construction permit to establish additional facilities to operate Station KOA264 on frequencies 454.150, 454.250, and 454.300 MHz in the DPLMRS at Portland, Oregon, CC Docket No. 81-368, File No. 21334-CD-P-03-79; and RAM Broadcasting of Oregon, Inc., for renewal of license of Station KUC874 operating on frequencies 454.150, 454.250, and 454.300 MHz in the DPLMRS at Portland, Oregon, CC Docket No. 81-369, File No. 23741-CD-R-79.

Memorandum Opinion and Order

Adopted: May 26, 1981.

Released: June 5, 1981.

By the Common Carrier Bureau.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the above-captioned applications of Empire Mobilcomm Systems, Inc. (Empire) and Mobile Radio Communication Service, Inc. (Mobile) for construction permits to add facilities to operate on Stations KOK419 and KOA264 respectively, and the application of RAM Broadcasting of Oregon, Inc. (RAM) for renewal of the license for Station KUC874. RAM has filed petitions to deny the Empire and Mobile applications. Responsive pleading have been filed.

2. The Empire and Mobile applications for a construction permit and the RAM renewal application are electrically mutually exclusive because they propose to operate on the same frequencies in the same area.[1] Thus, a comparative hearing will be held to determine which applicant would best serve the public interest. We find the applicants to be otherwise qualified, except as noted herein.

3. The petitions raise the following issues for our consideration:[2] (a) Whether Empire has adequately demonstrated site availability; (b) Whether Empire's proposal contains technical deficiencies; and (c) Whether Mobile has demonstrated adequate need for the facilities proposed.

4. *Site Availability.* RAM challenges Empire's demonstration of site availability by charging that the original letter in the application purporting to evidence site availability is too old and because the letter failed to adequately describe the facilities, indicate their location, and set forth the rent to be paid on them. In response, Empire amended its application by including a recent copy of the site lease and by providing additional information which demonstrates the suitability of the site. The application, as amended, provides reasonable assurances of site availability and, therefore, we will not designate this issue for hearing.

5. *Technical deficiencies.* Petitioner alleges that the Empire application, as filed, contained a number of technical deficiencies, including discrepancies in coordinates, inaccuracies in calculation of the relevant 39 dbu contours and misstatements of the gain of its frequency 454.300 MHz antenna. In response, Empire modified its application to properly set forth its coordinates and 39 dbu contours. In addition, Empire withdrew its request for frequency 454.300 MHz. The amendments to the Empire application effectively answer all of the petitioner's objections regarding technical deficiencies. Thus, we will not designate this issue for hearing.

6. *Mobile Need Showing.* Petitioner challenges the adequacy of the Mobile need showing because, petitioner argues, the showing fails to meet the standards we set forth in *Long Island Pagin*, 30 FCC 2d 405, *review denied*, 32FCC 2d 235 (1971), *recon., denied*, 34 FCC 2d 216 (1972). However, the *Long Island Paging* criteria are not applicable where, as here, the applicant proposes to add frequencies to its present operations without significantly increasing its service area.[3] Instead, § 22.516 of our Rules requires that an applicant for additional frequencies in the same service area provide traffic loading studies for each existing frequency in the area, along with a showing of the number (if any) of additional subscribers for which service orders are being held. Mobile has submitted traffic loading studies for its four existing UHF channels and has stated that it holds 46 orders for additional subscribers. Our review of this data indicates that Mobile has adequately demonstrated a need for only one of the three additional frequencies requested. Therefore, we will designate and issue as to whether Mobile has adequately demonstrated a need for more than one additional frequency.

9. Accordingly, it is ordered, That the Petition to Deny filed by RAM Broadcasting of Oregon, Inc., in File No. 21619-CD-P-(3)-79, is denied, that the Petition to Deny filed by RAM Broadcasting of Oregon, Inc., in File No. 21334-CD-P-03-79, is granted in part

[1] The Mobile application and the RAM renewal application both requested to operate on frequencies 454.150, 454.250, and 454.300 MHz. The Empire application originally requested to add frequencies 454.150 and 454.250 MHz, and to increase the power on its existing frequency 454.300 MHz at Salem, Oregon, such that all three frequencies would be electrically mutually exclusive with the Mobile and RAM applications. However, for reasons explained *infra*, Empire withdrew its request to increase power for frequency 454.300 MHz. Thus, Empire's application contains only two frequencies which are electrically mutually exclusive with the Mobile and RAM applications.

[2] Financial qualifications issues were also raised against Empire and Mobile. We need not consider these issues, however, because applicants in the DPLMRS are no longer required to demonstrate their financial qualifications. *Elimination of Financial Qualifications*, 82 FCC 2d 152 (1980).

[3] Appplications are considered to request additional facilities if the proposed contour(s) overlaps and existing contour by 50% or more. *See Empire Paging Corporation*, Mimeo 07020, released February 17, 1981.

and denied in part, to the extent noted herein, and that the applicaton of Empire Mobilcomm Systems, Inc., File No. 21619–CD–P–(3)–79, the application of Mobile Radio Communication Service, Inc., File No. 21334–CD–P–03–79, and the renewal application of RAM Broadcasting of Oregon, Inc. File No. 23741–CD–R–79, are designated for hearing in a consolidated proceeding, pursuant to Section 309(e) of the Communications Act of 1934, as amended, upon the following issues:

(a) to determine whether Mobile Radio Communication Service has demonstrated a need for more than one additional frequency;

(b) to determine and compare the nature and extent of service proposed by each applicant,[4] including the rates, chargers, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(c) to determine on a comparative basis, the areas and populations that each applicant will serve within the propective 39 dBu contours, based upon the standards set forth in § 22.504(a) of the Rules,[5] and to determine and compare the need for the proposed services in said areas and

(d) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience and necessity.

10. It is further ordered, that with respect to issue (a) the burden of proof and the burden of proceeding with the introduction of evidence is placed upon Mobile.

11. It is further ordered, that, with respect to issues (b) and (c), the burden of proof and the burden of proceeding with the introduction of evidence are placed on each of the applicants, as the issues affect them, and that the ultimate burden of proof with respect to issue (d) is similarly place on each of the applicants.

12. It is further ordered, that the hearings shall be held at the Commission offices at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

13. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

14. It is further ordered, that any authorization granted to RAM Broadcasting of Oregon, Inc. as a result of the comparative hearing designated herein shall be without prejudice to and conditioned upon whatever action, if any, the Commission may take as a result of allegations raised in petitions against RAM Broadcasting Corporation and/or its Michigan subsidairy.

15. It is further ordered, that the applications may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

16. The Secretary shall cause a Copy of this order be published in the **Federal Register.**

Sheldon M. Guttmann,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-17474 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

[4] The comparative analysis may include past performance of the applicants.

[5] Section 22.504(a) of the Commission's Rules and regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaved in two-way communications service and operating on frequencies in the 450–460 MHz band. Propagation data set forth in § 22.504(b) of the Rules are the proper bases for establishing the location of sevice contour (F50,50) for the facilities involved in this proceeding.

[BC Docket No. 81-359, File No. BPCT-791022KE; and BC Docket No. 81-360, File No. BPCT-800521KN]

The Great Onondaga County Telecasting Corporation and Comark Television, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 21, 1981.

Released: June 5, 1981.

By the Chief, Broadcast Bureau.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 62, Syracuse, New York.

Preliminary Matters

2. We note that there is a proposed rulemaking proceeding (D80–269) before for the Commission which would allocate new UHF Channel assignments to the New Jersey market. The impact on the instant case would be the deletion of Channel 62 and the addition of Channel 68 or 69 in the Syracuse market. In the event the proposed rulemaking is adopted, the permittee of the Channel 62, Syracuse, New York allocation would be required to change frequency to either Channel 68 or 69. Therefore, the grant of construction permit to either applicant will be appropriately conditioned, to be subject to the outcome of the (D80–269) proposed rulemaking proceeding.

3. The Great Onondaga County Telecasting Corporation has an application pending for subscription television (STV) authority. However, the STV application will not be considered in this proceeding. This is in keeping with the Commission's policy in regard to mutually exclusive applications for a new station where one contemplates STV operation and the other a conventional facility as stated in Paragraph 15, *Second Report and Order*, FCC 81–13, adopted January 8, 1981.

The Great Onondaga County Telecasting Corporation

4. Analysis of the ascertainment effort of applicant reveals that is has not submitted appropriate demographic data on the proposed community of license with respect to minority, racial or ethnic breakdown as required by Questions and Answers 9 and 10 of the *Primer on Ascertainment of Community Problems by Broadcast Applicants (Ascertainment Primer)*, 27 F.C.C. 650, 687 (1971). Accordingly, an appropriate ascertainment issue will be designated.

Comark Television Inc.

5. Analysis of the ascertainment effort of applicant reveals that it has not submitted appropriate demographic data on the proposed community of license with respect to minority, racial or ethnic breakdown as required by Questions and Answers 9 and 10 of the *Primer*, supra. Also, applicant has not submitted the date of the completion of the community leader survey. Therefore, we are not able to determine whether the survey was completed within the 6 months prior to the filing of the application as required by Question and Answer 15 of the Ascertainment Primer, supra. In light of the above, appropriate ascertainment issues will be specified.

6. The Federal Aviation Administration has issued a determination of possible air hazard with respect to Comark's tower height and location and an appropriate issue will be specified.

7. Comark proposes to operate from a site located within 250 miles of the Canadian border with maximun visual effective radiated power (ERP) of 5000 kilowatts. The proposal poses no interference threat to United States television stations; however, it does contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of*

Notes, T.I.A.S. 2594 (1952). In the event of a grant of Comark's application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts, absent Canadian consent. *South Bend Tribune*, 8 R.R. 2d 416 (1966).

Conclusion and Order

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it it ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to The Great Onondaga County Telecasting Corporation:

(a) whether it has complied with Questions and Answers 9 and 10 of the Ascertainment Primer;

(b) whether, in light of the evidence adduced pursuant to the foregoing issue, applicant is qualified.

2. To determine with respect to Comark Television, Inc.:

(a) whether it has complied with Questions and Answers 9 and 10 of the Ascertainment Primer;

(b) whether it has complied with Question and Answer 15 of the ascertainment Primer;

(c) whether there is a reasonable possibility that the tower height and location proposed by Comark would constitute a hazard to air navigation.

(d) whether, in light of the evidence adduced pursuant to the foregoing issues, applicant is qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

11. It is further ordered, that in the event of a grant of Comark's application, the construction permit shall contain the following condition:[1]

Operation with effective radiated power in excess of 1000 kW after October 1, 1982 is subject to a further extension of consent by Canada.

12. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-17470 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-370, File No. BPCT-801023KF; and BC Docket No. 81-371, File No. BPCT-801219KE]

Holt-Robinson Television of Louisiana, Inc. and Lake Charles Electronic Media, Inc.; Designating Applications for Consolidated Hearings on Stated Issues

Adopted: May 26, 1981.

Released: June 4, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television broadcast station on Channel 29, Lake Charles, Louisiana.

2. *Holt-Robinson Television of Louisiana, Inc. (Holt).* No determination has been reached that the antenna structure proposed by Holt would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. *Lake Charles Electronic Media, Inc. (LCEM).* Analysis of the financial data submitted by applicant indicates that it will require $273,650 to construct its proposed facility and operate for three months, itemized as follows:

Equipment	$151,500
Land	2,500
Legal costs	45,000
Engineering costs	1,500
Installation costs	3,000
Miscellaneous costs	5,000
Operating costs (three months)	65,150
Total	273,650

To meet these expenses, LCEM intends to rely upon a loan from Kaough and Jones Electric Company, Inc. (KJEC). Review of KJEC's balance sheet shows that current liabilities exceed current assets. Therefore, KJEC has not demonstrated that it can meet its commitment. Accordingly, financial issues will be specified to determine if the applicant has $273,650 available to construct and operate as proposed.

4. In the event of a grant of LCEM's application, the construction permit will be conditioned to require LCEM to demonstrate that its proposed antenna will not alter the antenna impedance of AM station KAOK, Lake Charles, Louisiana on the same tower.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Holt-Robinson Television of Louisiana, Inc.:

(a) Whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation;

(b) Whether, in light of the evidence adduced pursuant to issue (a), the applicant is qualified.

2. To determine with respect to Lake Charles Electronic Media, Inc.:

(a) Whether it has $273,650 available to construct and operate as proposed.

(b) Whether, in light of the evidence adduced pursuant to issue (a), applicant is financially qualified.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the

[1] Also in the event of a grant of either application, the construction permit shall contain the following condition: Grant of this construction permit is subject to the outcome of the Docket 80-269 proposed rulemaking proceeding.

foregoing issues, which of the applications should be granted.

7. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding.

8. It is further ordered, that, in the event of a grant of Lake Charles Electronic Media, Inc.'s application, the construction permit shall contain the following condition:

During installation of the TV antenna, AM station KAOK shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements of the AM antenna shall be made and, the results submitted to the Commission along with a tower sketch of the installation in an application for station to return to the direct method of power determination. Thereafter the TV Station may commence *Limited Program Tests.*

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-17473 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-365; File No. BPH-800310AD; and BC Docket No. 81-366, File No. BPH-800828AC]

Public Broadcasting Service, Inc. and Haskin Broadcasting Corp.; Designating Applications for Consolidated Hearing on Stated Issues

In re application of Public Broadcasting Service, Inc., Enid, Oklahoma, Req: 103.1 MHz, Channel 276, 3kW (H&V), 298.12 feet; and Haskin Broadcasting Corporation, Enid, Oklahoma, Req: 103.1 MHz, Channel 276, 3 kW (H&V), 300 feet, for Construction Permit for a New FM Station.

Adopted: May 26, 1981.

Released: June 5, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Public Broadcasting Service, Inc. and Haskin Broadcasting Corporation.

2. Neither applicant will be able to provide a 3.16 mV/m signal to the entire city of Enid as required by § 73.315(a) of the Commission's Rules. A recent annexation by the city has almost tripled the size of Enid. Prior to the annexation, both applicants would have provided sufficient coverage. They have attempted to place their transmitter sites as close to the center of town as possible, but unless a site is located in the center of Enid, where sites are not available, one extremity or another of the annexed area will not be within the 3.16 mV/m contour. The population not receiving city grade service (0.05% for Haskin, 0.16% for Public Broadcasting) is de minimus.[1] Under these circumstances, we have determined that waiver of this provision is appropriate.

3. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for comparative hearing on the issues specified below.

4. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence, adduced pursuant to foregoing issues, which of the applications should be granted.

5. It is further ordered, that if either application is granted, the permit shall specify that the provisions of § 73.315(a) of the Commission's Rules are waived to permit a signal level of less than 3.16 mV/m over the entire city Enid, Oklahoma.

[1] Population is based upon the Chamber of Commerce estimate for Enid (1980) of 62,273. The Haskin proposal would affect 32 people, while Public Broadcasting's would affect 88.

6. It is further ordered, that in the event the application of Public Broadcasting Service, Inc. is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, Public Broadcasting Service, Inc. will divest itself of either its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-17477 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-357, File No. BPH-800605AB; and BC Docket No. 81-358 File No. BPH-800829AP]

Richard A. Peterson and Stanley H. Watson, d.b.a. Hassayampa Broadcasting and Shoblom Broadcasting, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Richard A. Peterson and Stanley H. Watson, d.b.a. Hassayampa Broadcasting, Wickenburg, Arizona, Req: 105.5 MHz, Channel 288 3 kW (H&V), —156 feet; Shoblom Broadcasting, Inc., Wickenburg, Arizona, Req: 105.5 MHz, Channel 288 3 kW (H&V), —156 feet, for Construction Permit for a New FM Station.

Adopted: May 18, 1981.

Released: June 4, 1981.

By the Chief, Broadcast Bureau

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under

consideration the above-capitoned mutually exclusive applications filed by Richard A. Peterson and Stanley H. Watson, d.b.a. Hassayampa Broadcasting (Hassayampa) and Shoblom Broadcasting, Inc., (Shoblom).

2. *Hassayampa.* Analysis of the financial data submitted by Hassayampa reveals that $86,874.50 will be required to construct the proposed station and operate for three months, itemized follows:

Equipment	$55,389.50
Land	2,500.00
Building	2,000.00
Miscellaneous	3,245.000
Operating costs (three months)	23,760.00
Total	$86,874.50

Hassayampa plans to finance construction and operation with $22,500 cash plus loans by the partners. However, Richard A. Watson has shown net liquid assets of only $804.00, and Stanley A. Peterson has shown no net liquid assets. The applicant also intends to rely on deferred credit by Rockwell International for purchase of its transmitter and antenna, but has failed to provide a credit commitment letter. Since the applicant has shown only $23,304 available, an amount insufficient to meet proposed costs of $86,874.50, a financial issue will be specified.

3. In response to question 16 of Section IV–A regarding its public affairs programming policy, the applicant does not indicate compliance with the Commission's Fairness Doctrine. Accordingly, an issue will be specified.

4. Hassayampa states that it will employ five persons and does not indicate that any of there employees will be part-time. Section 73.2080 requires that applicants for new FM stations proposing to employ five or more full-time individuals submit a copy of their Equal Opportunity Program. Hassayampa has failed to submit its EEO program and an issue will be specified.

5. *Shoblom.* Analysis of the financial data submitted by Shoblom reveals $45,105 will be required to construct the proposed station and operate for there months, itemized as follows:

Equipment	$9,000
Land	2,500
Buildings	2,000
Miscellaneous	9,000
Operating costs (three months)	22,605
Total	[1] $45,106

[1] As the proposed assignee of stations KSWN(AM), Wickenburg, and applicant for a new FM station at Yucca Valley, California, Shoblom's financial commitments, including the instant application, total $81,509.

Shoblom plans to finance construction and operation with $31,853 in existing capital and a bank loan of $115,000. However, the bank loan commitment was for 90 days and has expired. Moreover, the bank letter failed to contain terms of collateral. Pursuant to *Contemporary Televisions Broadcasting, Inc.*, Mimeo 05812, released January 16, 1981, the bank loan has not been shown to be available. Since applicant has only shown $31,853, in financing, an amount insufficient to meet proposed costs of $45,105, a financial issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Hassayampa:

(a) The source and availability of additional funds over and above, the $23,304.00; and

(b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether Hassayampa's public affairs programming policy complies with the Fairness Doctrine.

3. To determine if Hassayampa's EEO program is in compliance with Section 73.2080.

4. To determine with respect to Shoblom:

(a) The source and availability of additional funds over and above the $31,853 indicated; and

(b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

5. To determine which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

8. It is further ordered, that in the event the application of Shoblom is granted, it is subject to the condition that if the Commission ultimately adopts a rulemaking prohibiting commonly owned AM and FM stations in the same market Shoblom will divest itself either of its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

9. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-17475 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-276 and File No. BR-781130UA; FCC 81-199]

Rocket Radio, Inc. and Station WFPM, Fort Valley, Georgia; Designating Application for Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: April 23, 1981.

Released: June 5, 1981.

By the Commission.

1. The Commission has before it for consideration the above-captioned application, filed November 30, 1978, by Rocket Radio, Inc. (Rocket), seeking renewal of license for Station WFPM, Fort Valley, Georgia; and the question of the effect, if any, on that license renewal application of a ruling in a comparative FM hearing proceeding that Rocket lacked the requisite character qualifications to be the FM licensee.

2. On July 12, 1978, the Commission released a Memorandum Opinion and Order, FCC 78–476 (*Order*), denying Rocket's petition to reopen the record and application for review of the Review Board's affirmance[1] of the Initial

[1] *Rocket Radio, Inc. et al.*, 65 FCC 2d 589 (1977); recon. granted in part, 66 FCC 2d 193 (1977). [Hereinafter cited as *Review Board I* and *Review Board II*, respectively]. In *Review Board I*, the Board affirmed in their entirety the Administrative Law Judge's findings and conclusions with regard to Rocket. *Review Board II* dealt only with a petition for reconsideration filed by Rocket's competing applicant, and is irrelevant to this proceeding.

Decision of Administrative Law Judge Walter C. Miller[2] which determined that, on the basis of testimony and evidence adduced during a comparative hearing on mutually exclusive applications for a new FM broadcasting facility in Fort Valley, Georgia, Rocket was not of fit character to become the FM licensee. The hearing record established three independent grounds upon which the Adminstrative Law Judge, the Review Board and the Commission based their determination that Rocket should be disqualified for character deficiencies:

(1) Paul Reehling, Rocket's President and principal stockholder, knowingly and deliberately submitted a false affidavit to the Commission in an attempt to discredit the competing applicant;

(2) As Mayor of Fort Valley, Reehling improperly influenced the city building inspector to obstruct and impede the competing applicant; and

(3) Also as Mayor of Fort Valley, Reehling used police officers to investigate volunteer workers for the competing applicant.[3]

Due to ". . . the serious nature of the character qualifications issue outstanding against Rocket . . .", the Commission placed the instant license renewal application on deferred status.[4] The question before us now is the effect of the adverse ruling on WFPM's renewal application.

3. Before the Commission may grant any broadcast application, it must make the affirmative finding in accordance with Section 309(d) of the Communications Act that a grant of the application would serve the public interest, convenience and necessity. 47 U.S.C. 309(d). In view of the adverse ruling as to Rocket's character qualifications in the prior proceeding, that affirmative finding with regard to WFPM's renewal application cannot be made at this time. However, disqualification in the FM construction permit proceeding due to misconduct in pursuit of that permit does not mean that Rocket is, *ipso facto*, totally unqualified to retain a pre-existing license. The effect of the prior disqualification on the instant license renewal application is a question for the Commission to determine on the basis of all the factors judged by the Commission to be relevant. *WNST Radio, et al.*, 70 FCC 2d 1036 (Rev. Bd. 1978); *3 J's Broadcasting Company*, 41 FCC 2d 664 (Rev. Bd. 1973).

4. Therefore, WFPM's renewal application shall be designated for hearing in order for the Commission to assess the impact of the prior disqualification on Rocket's qualifications to remain the licensee of WFPM, and in order to give Rocket the opportunity to present evidence in mitigation. In this regard, we note that under the doctrine of collateral estoppel, where a tribunal of competent jurisdiction enters a final judgment on the merits of a cause of action, in any subsequent proceeding on a different cause of action the parties to the prior proceeding are precluded from re-litigating the issues which were of decisional significance in the prior proceeding.[5] Collateral estoppel clearly applies to the finding of lack of character qualifications which resulted in Rocket's disqualification in the comparative FM proceeding, and Rocket is precluded from re-litigating those issues in connection with its renewal application for Station WFPM.[6]

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application for renewal of license for Station WFPM, Fort Valley, Georgia, filed by Rocket Radio, Inc., is designated for hearing at a time and place and before an Administrative Law Judge to be specified in a subsequent order, on the following questions:

1. To determine, in light of the findings in *Rocket Radio, Inc. et al.*, 65 FCC 2d 589 (1977), recon. granted in part, 66 FCC 2d 193 (1977), whether Rocket Radio, Inc. possesses the requisite qualifications to be a Commission licensee; and

2. To determine, in light of the arguments presented with respect to the foregoing issue, whether grant of the captioned license renewal application would serve the public interest, convenience and necessity.

6. It is further ordered, that, to avail itself of the opportunity to be heard, Rocket Radio, Inc., pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall, within 20 days of the release of this Order, file with the Commission, in triplicate, a written notice stating an intention to appear on the date and time fixed for the hearing and present arguments and evidence on the issues specified in this Order.

7. It is further ordered, that, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding and the burden of proof with respect to all the issues herein shall be upon Rocket Radio, Inc.

8. It is further ordered, that Rocket Radio, Inc., shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing ordered herein within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the Rules.

9. It is further ordered, that the Secretary of the Commission shall send a copy of this Order by Certified Mail, Return Receipt Requested, to Rocket Radio, Inc.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-17469 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

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[2] *Rocket Radio, Inc., et al.* 66 FCC 2d 802 (1976). [Hereinafter cited as *Initial Decision*].

[3] *Order, supra* at para. 1. See also, *Initial Decision, supra* at 853; and *Review Board I, supra* at 598-603.

[4] Commission letter 8340 to Rocket Radio, Inc., dated October 17, 1977.

[5] Collateral estoppel is applicable to a decision by an administrative agency acting in its judicial capacity. *Nasem* v. *Brown*, 595 F. 2d 801, 805 (D.C. Cir. 1979). Further, FCC licensing proceedings are administrative adjudications subject to collateral estoppel. *Gordon County Broadcasting Co.* v. *F.C.C.*, 446 F. 2d 1335, 1338 (D.C. cir. 1971); *Tomah-Mauston Broadcasting Co.* v. *F.C.C.*, 306 F. 2d 811, 813 (D.C. Cir. 1962).

[6] On March 23, 1981, Rocket filed a pleading entitled "Petition for Grant of Renewal of License," wherein Rocket requests that "if the doctrine of collateral estoppel is applied to this renewal proceeding, it should have the opportunity to present facts in mitigation of the adverse finding" resulting from the comparative FM proceeding. However, the only facts submitted by Rocket are solely in support of its arguments to the effect that: (1) Rocket did not knowingly submit a false affidavit to the Commission or make misrepresentations in connection therewith; (2) Rocket did not improperly obstruct or impede the competing applicant; and/or (3) the competing applicant's volunteer workers were not in fact harassed or intimidated by the police officers who investigated them at Reehling's request. These issues were of decisional significance in the Commission's ruling in the comparative FM proceeding and were decided adversely to Rocket. See para. 2, *supra*. Thus, although Rocket characterizes its facts as being "in mitigation" of the prior adverse ruling, it is in fact proposing to re-litigate those issues in a collateral attack on the Commission's prior ruling. Rocket is precluded from doing so by the doctrine of collateral estoppel, and its arguments clearly do not justify the grant of the relief requested, *i.e.*, grant of WFPM's renewal application. Rocket's pleading also contains letters attesting to Reehling's good character and to the service to the community provided by WFPM. However, such letters do not obviate the Commission's responsibility to assess the impact on the instant renewal application of Rocket's disqualification due to specific acts of misconduct in the prior proceeding. Accordingly, Rocket's "Petition for Grant of Renewal of License" is hereby denied.

[Report No. A-29]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: June 4, 1981.

Cut-off date: July 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 July 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 July 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 July 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 July 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-810306KE (new), Riverside, California, Pan-Pacific Broadcasting, Inc. Channel 62. ERP: Vis. 2128 kW; HAAT: 2395 feet

BPCT-810327KF (new), Columbus, Georgia, Beacon Broadcasting, Inc. Channel 54. ERP: Vis. 1294 kW; HAAT: 1026 feet

BPCT-810424KE (new), Longview, Texas, KLMB-TV, Incorporated. Channel 51. ERP: Vis. 3083 kW; HAAT: 1091 feet

BPET-810330KF (new), Greenwood, South Carolina, South Carolina Educational Television Commission. Channel 38. ERP: Vis. 1776 kW; HAAT: 768 feet

BPCT-810424KG (new), Parkersburg, West Virginia, Eastern Associated Services, Inc. Channel 39. ERP: Vis. 586 kW; HAAT: 646 feet

BPCT-810428KE (new), Paris, Texas, KLMB-TV, Incorporated. Channel 42. ERP: Vis. 1545 kW; HAAT: 557 feet

BPCT-810430KG (new, Major Amendment), Victoria, Texas, Community Television of Victoria. Channel 31. Change Channel from Channel 25

BPCT-810511KO (new), New London, Connecticut, Connecticut Yankee Broadcasting Company. Channel 26. ERP: Vis. 2234 kW; HAAT: 538 feet

*BMPCT-810519KE (WATR-TV), Waterbury, Connecticut, Thomas Television, Inc. Channel 20. Reduce ERP Vis.. to 239 kW.

BPCT-810428KF (new), Melbourne, Florida, Broadcast Production and Management Corporation. Channel 56. ERP: Vis. 1194 kW; HAAT: 1003 feet

[FR Doc. 81-17470 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-24]

TV Broadcast Application Accepted for Filing and Notification of Cut-Off Date

Released: June 4, 1981.

Cut-off date: July 20, 1981.

Notice is hereby given that the application listed below is accepted for filing. Since the application listed below is in conflict with the renewal application of WEZF-TV, Burlington, Vermont, which was subject to a cut-off date for conflicting applications pursuant to § 73.3516(e) of the Commission's Rules, no application which would be in conflict with the below-listed application will be accepted for filing.

Petitions to deny the application listed below and minor amendments thereto must be on file with the Commission not later than the close of business on July 20, 1981. The renewal application of WEZF-TV may also be amended as a matter of right not later than the close of business on July 20, 1981. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Rules.

BPCT-810302KE (new), Burlington, Vermont, Lake Champlain Communications Corporation. Channel 22. ERP: Vis. 1000 kW; HAAT: 2745 feet

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-17471 Filed 6-11-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

Correction

In FR Doc. 81-16991, appearing at page 30565 in the issue of Tuesday, June 9, 1981, the second sentence in the second paragraph in column one should read, "Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before June 29, 1981."

BILLING CODE 1505-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: American Express Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed merger with Shearson Loeb Rhoades Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 29, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-17532 Filed 6-11-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Compagnie Generale des Eaux is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Williard Inc., Fire Control Inc. and PSC Professional Services Group, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney Genral in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both

parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 12, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before the consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-17533 Filed 6-11-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: J.R. Simplot is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all assets of International Cooperative. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by International Cooperative. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 15, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-17534 Filed 6-11-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Loeb Partners Voting Trust is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Universal Electric Co. and ESB Universal Electric Limited. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 27, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-17535 Filed 6-11-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: North Jersey Savings & Loan Association is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed merger with Sentry Savings & Loan Association. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by North Jersey. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 18, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitons to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action by published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-17536 Filed 6-11-81; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Northwest Industries Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of Great Bear Spring Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Northwest Industries.

DATE: Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 28, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202)–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81–17537 Filed 6–11–81; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Saarbergwerke Aktiengesellschaft is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Ashland Oil Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 29, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81–17538 Filed 6–11–81; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Sanford I. Weill is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of American Express Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Sanford I. Weill. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 28, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81–17539 Filed 6–11–81; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Sequoia Ventures Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of substantially all voting securities of Dillon, Read & Co. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dillon. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: May 22, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.
Carol M. Thomas,
Secretary.
[FR Doc. 81-17560 Filed 6-11-81; 8:45 am]
BILLING CODE 6750-01-M

Premerger Notification; Delegation of Authority To Notify Filing Persons of Deficiencies in Responses to Requests for Additional Information or Documentary Material

AGENCY: Federal Trade Commission.
ACTION: Delegation of authority.

SUMMARY: The Federal Trade Commission has delegated the authority to notify persons filing responses to requests for additional information or documentary material of deficiencies in such filings, without the power of redelegation, to the following officials of the Bureau of Competition: The Director, the Deputy Directors, and the Assistant Director for Evaluation. This action is intended to eliminate any uncertainty which may be caused by certain new procedures for issuing such requests.

EFFECTIVE DATE: This delegation of authority shall be effective June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, telephone (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act ("the Act"), 15 U.S.C. 18a, requires persons contemplating certain acquisitions of assets or voting securites to give advance notice to the Federal Trade Commission ("the Commission") and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice ("the Assistant Attorney General") and to wait certain designated periods before consummation of such acquisitions. Subsection (e) of the Act empowers the Commission of the Assistant Attorney General during the running of the waiting period to request additional information or documentary material relevant to the proposed acquisition and to extend the waiting period for up to a specified number of days after responses to such requests have been received. Section 803.20 of the premerger notification rules ("the rules"), 16 CFR 803.20, establishes the procedures to be used in making such requests for additional information or documentary material ("second requests"). Section 803.10(c)(2) of the rules, 16 CFR 803.10(c)(2), requires that, with respect to second requests issued by the Commission, "the Commission * * * shall promptly notify the person filing such * * * response (to a second request) of the deficiencies in such filing * * *."

At the time the present rules were promulgated, the Commission formally delegated the authority to issue second requests to the Director, the Deputy Directors, and the Associate Director for Premerger Notification (later changed to the Assistant Director for Evaluation) of the Bureau of Competition. see the Statement of Basis and Purpose to § 803.20, 43 FR 33515 (July 31, 1978). The authority to notify filing persons of deficiencies in responses to second requests was not explicitly delegated, but this authority was regarded as inherent in the authority to issue the request and use the information obtained. Section 20(i) of the Federal Trade Commission Act, 15 U.S.C. 60(i), as added by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96-252, 94 Stat. 374, has required a change in the procedures for issuing second requests. Such requests must now be signed by a Commissioner pursuant to a Commission resolution. This change in procedures has caused uncertainty concerning the continued authority of the designated officials of the Bureau of Competition to notify filing persons of deficiencies. To eliminate this uncertainty, the Commission has formally delegated this authority to these officials.

By direction of the Commission.
Carol M. Thomas,
Secretary.
[FR Doc. 81-17515 Filed 6-11-81; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees.

The following advisory committee meetings are announced:

Miscellaneous Internal Drug Products Panel

Date, time, and place. July 10, 11, and 12, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (July 10), Bldg. A, Lecture Rm. C, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Rd., Bethesda, MD (July 11 and 12).

Type of meeting and executive secretary. Open public hearing, July 10, 9 a.m. to 11 a.m.; open committee discussion, July 10, 11 a.m. to 5 p.m., July 11, 9 a.m. to 5 p.m., July 12, 8 a.m. to 3 p.m.; John R. Short, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee (including drug categories which the Panel will not review in detail). Those who desire to make such a presentation should notify the executive secretary before June 27, 1981, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Applications for reimbursement. Must be received by June 26, 1981.

Dental Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. July 13, 9 a.m., Rm 403A-425A, 200 Independence Ave. SW., Washington, D.C.

Type of meeting and panel section leader. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Gregory Singleton, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

General function of the committee. The committee reviews and evaluates available data on the safety and

effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agend—Open public hearing. Intersted persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before June 22, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the comments submitted in response to the proposed regulations for dental devices, and discuss the agency's revisions of the proposed regulations. The committee will also discuss a proposed guideline for submission of premarket approval applications for endosseous implants.

Applications for reimbursement. Must be received by June 26, 1981.

General Hospital and Personal use Device Section of the General Medical Devices Panel

Date, time, and place. July 13, 9 a.m., Rm 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Robert Gatling, Bureau of Medical Devices (HFK–420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before June 29, 1981, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the safety and effectiveness data in premarket approval application P810007. The committee will also classify the following devices: chemical disinfection system, infusion fluid thermal warmer, and patient isolation chamber.

Applications for reimbursement. Must be received by June 26, 1981.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Applications for reimbursement for participation in the meetings listed above should be sent to the Office of Consumer Affairs (HFE–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301–443–5006.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meetings announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meetings announced in this notice in the docket for this notice.

Dated: June 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81–17228 Filed 6–11–81; 8:45 am]

BILLING CODE 4110–03–M

Advisory Committees; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App.I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, Time, and place. June 29 and 30, 8:30 a.m., Rm. 115, Bureau of Biologics, Bldg. 29, 8800 Rockville, Pike, Bethesda, MD.

Type of meeting and executive secretary. Open public hearing, June 29, 8:30 a.m. to 9:30 a.m.; open committee discussion, June 29, 9:30 a.m. to 5 p.m.; June 30, 8:30 a.m. to 10:45 a.m.; closed committee deliberations, June 30, 10:45 a.m. to adjournment; Jack Gertzog, Bureau of Biologics (HFB–5), Food and Drug Administration, Bldg. 29, 8800 Rockville, Pike, Bethesda, MD 20205, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss data concerning the safety, effectiveness, and proper labeling for a proposed new hepatitis vaccine to be administered to humans.

Closed committee deliberations. The committee may discuss a license application for hepatitis vaccine and will discuss a pending investigational new drug (IND). This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Applications for reimbursement. Must be received by June 22, 1981.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal natural, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Applications for reimbursement for participation in the meeting listed above should be sent to the Office of Consumer Affairs (HFE-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Dockets Management Branch as prescribed in § 10.210 of the regulations (21 CFR 10.210). If you wish to submit an application or wish more information regarding the reimbursement program, please call 301-443-5006.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting announced in this notice. The Office of Consumer Affairs, FDA, will file any application for reimbursement for participation in the meeting announced in this notice in the docket for this notice.

Dated: June 6, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 81-17568 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 81N-0069; DESI 9414]

Ataraxoid Tablets; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 10-636) for Ataraxoid Tablets containing 2.5 mg or 5.0 mg prednisolone and hydroxyzine hydrochloride. The basis of the withdrawal is that the drug products lack substantial evidence of effectiveness for their labeled indications. The products were previously used in the treatment of allergic/inflammatory disorders but are no longer marketed.

EFFECTIVE DATE: June 22, 1981.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 9414 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jean A. Peeler, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of November 28, 1972 (37 FR 25184) (then, Docket No. FDC-D-528, now Docket No. 81N-0069), the Commissioner of Food and Drugs proposed to withdraw approval of the following new drug application based on a lack of substantial evidence that the drug products are effective as a fixed combination and that each component of the combinations makes a contribution to the claimed effects.

NDA 10-636; Ataraxoid Tablets containing 2.5 or 5.0 mg prednisolone and hydroxyzine hydrochloride; Pfizer, Inc., 235 E. 42d St., New York, N.Y. 10017.

In a letter dated October 16, 1980, Pfizer Inc., stated that although it disagrees with FDA it will no longer contest the proposed withdrawal of approval. Approval of the new drug application is now being withdrawn.

Any drug product that is identical, related, or similar to the drug products named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 10-636, and all amendments and supplements applying thereto, is withdrawn effective June 22, 1981.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: March 23, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17607 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0283]

Bel-Mar Laboratories, et al.; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of 49 abbreviated new drug applications on the grounds that the applicants have failed to submit required reports.

DATE: Effective June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Herbert Behrens, Bureau of Drugs (HFD-530), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4080.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 5, 1980 (45 FR 58966), the Director of the Bureau of Drugs proposed to withdraw approval of 52 abbreviated new drug applications and offered an opportunity for a hearing on the proposal. The withdrawal was proposed on the grounds that the applicants have failed to submit the reports required under 21 CFR 310.300.

In response to the notice, Bel-Mar Laboratories, holder of ANDA 80-761, submitted the required annual report and therefore is not included in this final order. Two applications were on the list in error: ANDA 80-276, Elkins-Sinn, Inc., and ANDA 80-489, Robinson Laboratory, Inc. Thus this final order affects the following 49 of the 52 applications originally listed.

None of the applicants filed a notice of appearance and request for hearing. Failure to do so constitutes an election by those persons not to make use of the opportunity for hearing.

ANDA No. and Drug	Applicant
80-282 Testosterone Propionate Solution in Oil, 100 mg/mL.	Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.
80-192 Hydrocortisone Ophthalmic Ointment, 0.5%.	Day-Baldwin, Inc., 1460 Chestnut Ave., Hillside, NJ 07206.
80-193 Hydrocortisone Ophthalmic Ointment, 1.5%.	Do.
80-494 Hydrocortisone Lotion, 0.25, 0.5, & 1%.	Merit Pharmaceuticals, 8243 Telephone Rd., Houston, TX 77017.
80-226 Prednisolone Tablet, 5 mg.	Fellows-Testagar, 12741 Capital Ave., Oak Park, MI 48237.
80-595 Diphenhydramine HCl Elixir, 12.5 mg/5 mL.	ICN Pharmaceuticals Inc., 5040 Lester Rd., Cincinnati, OH 45213.
80-765 Sodium Sulfacetamide Ophthalmic Ointment, 10%.	Byk-Gulden, Inc., P.O. Box 730, Hicksville, NY 11802.
80-125 Aminosalicylic Acid Tablet, 0.5 g.	Stanlabs Pharmaceutical Co., P.O. Box 3106, Portland, OR 97208.
80-275 Succinylcholine Chloride Injection, 20 mg/mL.	Gotham Pharmaceutical Co., 1840 McDonald Ave., Brooklyn, NY 11223.
80-529 Cyanocobalamin Injection, 30, 100, & 1,000 mcg/mL.	Do.
80-527 Thiamine HCl Injection, 50, & 100 mg/mL.	Do.
80-526 Sparteine Sulfate Injection, 150 mg/mL.	Do.
80-528 Pyridoxine HCl Injection, 50 mg/mL.	Do.
80-202 Potassium Chloride Injection, 20 & 40 mEq.	Do.
80-864 Folic Acid Injection, 1 mg/mL.	Do.
80-169 Isoniazid Tablet, 100 mg.	Kasar Laboratories, 7313 N. Harlem Ave., Niles, IL 60648.
80-889 Folic Acid Tablet, 1 mg.	Do.
80-453 Procaine HCl Injection, 1 & 2%.	Medwick Laboratories, Inc., 2137 N. 15th Ave., Melrose Park, IL 60160.
80-405 Lidocaine HCl with & without Epinephrine 1:100,000 Injection, 1 & 2%.	Do.
80-862 Thiamine HCl Injection, 100 mg/mL.	Do.
80-739 Pyridoxine HCl Injection, 100 mg/mL.	Do.
80-650 Cyanocobalamin Injection, 100, & 1,000 mcg/mL.	Do.
80-771 Vitamin D Capsule, 50,000 I.U.	Stayner Pharmaceuticals, 1922 Junction Ave., San Jose, CA 95131.
80-726 Vitamin A Capsules Solubilized, 15 mg.	Do.
80-851 Diethylstilbestrol Tablet, 1 mg.	Do.
80-346 Prednisone Tablet, 5 mg.	Do.
80-348 Prednisone Tablet, 1 mg.	Do.
80-347 Prednisolone Tablet, 5 mg.	Do.
80-345 Prednisone Tablet, 2.5 mg.	Do.
80-579 Diphenhydramine HCl Capsule, 50 mg.	Do.
80-849 Diethylstilbestrol Tablet, 5 mg.	Do.
80-576 Chlorpheniramine Maleate Tablet, 4 mg.	Do.
80-533 Reserpine Tablet, 0.25 mg.	Do.
80-532 Reserpine Tablet, 0.1 mg.	Do.
80-981 Piperazine Citrate Syrup, 500 mg/5 mL.	Sperti Drug Products, 7 Sperti Dr., Ft. Mitchell, KY 41017.
80-864 Vitamin A Capsule, 15 mg.	Robinson Laboratory, Inc., 355 Brannan St., San Francisco, CA 94107.
80-851 Benzyl Benzoate Lotion, 25%.	Do.
80-852 Benzyl Benzoate Lotion, 50%.	Do.
80-866 Vitamin A (fish liver oil) Capsule, 15 mg.	Do.
80-865 Vitamin A Palmitate Capsule, 15 mg.	Do.
80-917 Diphenhydramine HCl Elixir, 12.5 mg/5 mL.	Do.
80-487 Hydrocortisone Lotion, 0.1%.	Do.
80-485 Hydrocortisone Cream and Ointment, 2.5%.	Do.
80-478 Hydrocortisone Cream and Ointment, 0.25%.	Do.
80-479 Hydrocortisone Lotion, 0.25%.	Do.
80-480 Hydrocortisone Cream and Ointment, 0.1%.	Do.
80-477 Hydrocortisone Cream and Ointment, 0.5%.	Do.
80-486 Hydrocortisone Lotion, 0.5%.	Do.
80-488 Hydrocortisone Ointment, 0.1%.	Do.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn. This order becomes effective on June 22, 1981.

Dated: February 23, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17413 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0493; DESI 5969

Bio-Flav Capsules; Withdrawal of Apporval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of the new drug application (NDA) 10-013) for Bio-Flav Capsules containing hesperidin complex, lemon bioflavonoid complex, and ascorbic acid. The basis of the withdrawal is that the drug product lacks substantial evidence of effectiveness for its labeled indications.

EFFECTIVE DATE: June 22, 1981.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 5960 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jean A. Peeler, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of July 8, 1974 (39 FR 24935), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug applications for certain drug products containing bioflavonoids. The proposed order was based on the lack of substantial evidence that the products are effective for their labeled indications.

In response to the notice, Nadin Co. requested a hearing, but has since withdrawn its hearing request. Approval of the following new drug application is now being withdrawn.

NDA 10-013; Bio-Flav Capsules containing hesperidin complex, lemon bioflavonoid complex, and ascorbic acid; Nadin Co., 1815 Flower St., Glendale, CA 91201.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA10-013, and all amendments and supplements applying thereto, is withdrawn effective June 22, 1981.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: March 23, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17405 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76N-0356; DESI 1543]

Conjugated Estrogens for Parenteral Use; Premarin Intravenous; Drug Efficacy Study Implementation; Rescission of Notice of Opportunity for Hearing and Reevaluation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice rescinds a notice of opportunity for hearing for Premarin Intravenous, reclassifies the drug product as effective under revised labeling, and announces the conditions for marketing the drug product for the appropriate indication. The drug product consists of conjugated estrogens for parenteral use, and is used in the treatment of certain types of abnormal uterine bleeding.

DATE: Supplements to approved new drug applications due on or before August 11, 1981.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 1543, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-04, Bureau of Drugs.

Original abbreviated new drug applications and supplements there to (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Freedom of Information Staff (HFI-35), Rm. 12A-16.

Requests for opinion of the applicability of this notice to a specific drug product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Margery Erickson, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 25, 1972 (37 FR 14826), the Food and Drug Administration (FDA) announced its evaluation of reports received from the National Academy of Sciences-National Research Council (NAS-NRC) on certain estrogen-containing drugs for oral or parenteral use. Included in the announcement was Premarin Intravenous containing conjugated estrogens (NDA 10-402; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017), which was among the short-acting estrogens found to be effective for the indication "abnormal uterine bleeding." Subsequently, in the **Federal Register** of September 29, 1976 (41 FR 43114), FDA made the following announcement concerning that indication:

The National Academy of Sciences-National Research Council considered the indication, abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology, to be effective. As stated, however, the indication is deficient in that it does not consider necessary prior diagnostic steps or the use of progestational agents simultaneously or in sequence. Although the July 25, 1972 notice classified this indication as effective, the Director of the Bureau of Drugs has concluded that while estrogens

may have a use in some cases of dysfunctional uterine bleeding, the above indication is inadequate, incomplete, and not appropriate in labeling. Therefore, it is not included in the indications listed in the labeling conditions (41 FR 43115).

The notice further offered drug sponsors and other interested persons an opportunity to request a hearing on FDA's proposal to withdraw approval of this indication.

On October 29, 1976, Ayerst Laboratories (Ayerst) filed a request for a hearing on the proposed deletion of the abnormal uterine bleeding indication for its product, Premarin Intravenous. Included with the request for hearing was a proposal for revised labeling intended to overcome the objections to the indication as previously worded. Ayerst also supplemented its hearing request on November 29, 1976 and April 14, 1978 with documentation and legal arguments.

Based upon a reevaluation of all available data, the Director of the Bureau of Drugs concludes that there is a patient population for whom parenteral administration of this drug, on a short-term basis, is useful, and that drug product is safe and effective for the indication if the labeling conditions are revised as set forth below. Accordingly, the September 29, 1976 notice is rescinded as it pertains to Premarin Intravenous and the abnormal uterine bleeding indication.

Drug products containing conjugated estrogens for intravenous use are regarded as new drugs (21 U.S.C. 321(p)). A supplemental new drug application is required to revise the labeling in and to update any previously approved application providing for such a drug. An approved new drug application is a requirement for marketing such a drug product.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers a drug product that the person manufacturers or distributes. Such person may request an opinion of the applicability of this notice to specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reevaluated all available evidence and concludes that the drug product is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in a form suitable for intravenous or intramuscular injection.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For profuse abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology such as submucous fibroids or uterine cancer and only when associated with a hypoplastic or atrophic endometrium.

c. In the Dosage and Administration section, the statement on usual dose of Premarin Intravenous is revised to read as follows:

One 25-mg injection, intravenously or intramuscularly. Intravenous use is preferred since more rapid response can be expected from this mode of administration. Repeat in 6 to 12 hours if necessary. Start immediately estrogen-progestin cyclic regimen such as conjugated estrogens 2.5 mg to 7.5 mg daily in divided doses (as tablets), for 20 days. During the last 5 to 10 days of therapy, an oral progestational agent should be given. Withdrawal bleeding may be expected in the next 2 to 5 days. It is important that therapy be continued and dosage not be reduced, otherwise breakthrough bleeding will occur. The above oral estrogen-progestin regimen should be repeated, beginning on day 5 of the cycle, during the next three subsequent cycles.

3. *Marketing Status.* Marketing of such a drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before August 11, 1981, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(C)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) must be obtained before marketing such products. Under 21 CFR 320.21, the application is to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing before approval of a new drug application will subject such products, and the persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: March 28, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17408 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0190; DESI 5378]

Eskatrol Spansule Capules; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of the new drug application (NDA 12-042) for Eskatrol Spansule Capsules containing 15 mg dextroamphetamine sulfate and 7.5 mg prochlorperazine maleate per sustained-release capsule. The basis of the withdrawal is that the product lacks substantial evidence that each component of the combination drug contributes to the total effects claimed. The drug has been used in the treatment of obesity.

EFFECTIVE DATE: June 22, 1981.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 5378 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jean A. Peeler, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of February 12, 1973 (38 FR 4279) (formerly

Docket No. FDC-D-582, now Docket No. 79N-0190), the Commissioner of Food and Drugs proposed to issue an order withdrawing approval of certain combination anoretic drugs. Among them was Eskatrol Spansules containing 15 mg dextroamphetamine sulfate and 7.5 mg prochlorperazine maleate per sustained-release capsule (NDA 12-042). The proposed order was based on lack of substantial evidence that the drug is effective as a fixed-combination, lack of proof of safety (because of the recognized potential for abuse of its amphetamine component), and failure to submit certain required reports. In response to the notice, Smith Kline & French Laboratories requested a hearing, but has since withdrawn its request.

Smith Kline and French has also withdrawn, insofar as it applies to Eskatrol, its later hearing request that responded to a notice of opportunity for a hearing published on July 17, 1979 (44 FR 41552) proposing to withdraw approval and remove from the labeling of all amphetamine drug products the recommendation for use in the management of exogenous obesity. Therefore, approval of the following new drug application is now being withdrawn.

NDA 12-042; Eskatrol Spansule Capsules containing 15 mg dextroamphetamine sulfate and 7.5 mg prochlorperazine maleate per sustained-release capsule; Smith Kline & French Laboratories, Division of Smith Kline Corp., 1500 Spring Garden St., Philadelphia, PA 19101.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the combination drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 12-042, and all amendments and supplements applying thereto, is withdrawn effective June 22, 1981.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approval new drug application will then be unlawful.

Dated: April 1, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17404 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0081]

Frozen Fish Sticks, Frozen Fish Cakes, and Frozen Crab Cakes; Recommended Microbiological Quality Standards

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is updating the reference for the methodologies cited in the recommended microbiological quality standards for frozen fish sticks, frozen fish cakes, and frozen crab cakes and is issuing a correction to microbiological limits specified in the recommended microbiological quality standard for frozen crab cakes.

ADDRESS: Written comments on the revised recommended microbiological quality standards should be submitted to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: R. B. Read, Jr., Bureau of Foods (HFF-120), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-245-1217.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 3, 1980 (45 FR 37524), FDA issued recommended microbiological quality standards for frozen fish sticks, frozen fish cakes, and frozen crab cakes. The methodologies referenced in each of the recommended quality standards were contained in the "Official Methods of Analysis of the Association of Official Analytical Chemists," (AOAC) 12th Ed. (1975), sections 46.037, 46.038, and 46.039. The 13th edition of the AOAC has been issued and contains these methodologies under different sections.

FDA has revised each of the recommended quality standards to reflect the current AOAC reference. Section B of each of the recommended microbiological quality standards now refers to the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 46.014, 46.015, and 46.016.

In addition, the microbiological limits specified in sections (b) (1) and (2) of the recommended microbiological quality standard for frozen crab cakes are incorrect. The complete text of the corrected and revised recommended microbiological quality standard for frozen crab cakes is as follows:

Recommended Microbiological Quality Standard

Frozen Crab Cakes

(a) For the purposes of this recommended microbiological quality standard the following definitions apply:

(1) A "frozen crab cake" is any frozen article designated by its label statement of identity as a crab cake and which is made from shredded crabmeat and non-crabmeat flesh filler and binder ingredients.

(2) A "sample of frozen crab cakes" is a collection of five subsamples (retail size packages), taken to be representative of the lot, provided that one subsample is taken from each of five different randomly chosen shipping cases when the lot consists of five or more shipping cases.

(b) When examined by the methods described in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 46.014, 46.015, and 46.016, a sample of frozen crab cakes should meet the following recommended microbiological limits:

(1) Aerobic plate count should not exceed either:

(i) 120,000 per gram in three or more of the five subsamples examined or

(ii) 1,200,000 per gram in any of the five subsamples examined.

(2) Coliform count by Most Probable Number (MPN) should not exceed either:

(i) 430 per gram in three or more of the five subsamples examined or

(ii) 4,300 per gram in any of the five subsamples examined.

(c) The provisions of this guide are not applicable to a lot of frozen crab cakes which has a date of manufacture less than 30 days prior to the date of the sample examination.

These recommended standards are recommendations and not regulations. FDA encourages their voluntary adoption by industry and by State authorities who may wish to incorporate them into State food regulations. See 21 CFR 10.90(c).

Copies of the corrected recommended microbiological quality standards for frozen fish sticks, frozen fish cakes, and frozen crab cakes are available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857. Requests for single copies of the recommendations may be made in writing to the Food and Drug Administration, Bureau of Foods (HFF–120), Division of Microbiology, 200 C St. SW., Washington, D.C. 20204.

Interested persons may submit written comments on the recommendations to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857 (preferably four copies and identified with the docket number found in brackets in the heading of this document). Received comments will be incorporated into the public file on the recommendation and may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 2, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17414 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N–0195; DESI 9048]

Methoxsalen Capsules; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the indication for which methoxsalen capsules are regarded as effective and states the conditions for approval and marketing of the drug. The drug is used in the treatment of vitiligo.

DATE: Supplements to approved new drug applications due by August 11, 1981.

ADDRESS: Communications in response to this notice should be identified with Docket No. 80N–0195, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Anti-Infective Drug Products (HFD–140), Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI–35), Rm. 12A–12.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 3, 1970 (35 FR 16950), the Food and Drug Administration (FDA) announced its evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS–NRC) on Oxsoralen Capsules containing 10 milligrams of methoxsalen (that part of NDA 9–048 pertaining to Oxsoralen Capsules; held by Paul B. Elder Co., 705 E. Mulberry St., P.O. Box 31, Bryan, OH 43506).

FDA classified Oxsoralen Capsules as possibly effective for use to protect against sunburn, enhance pigmentation, increase tolerance of the skin to sunlight, and facilitate repigmentation of vitiligo. Affected persons were given 6 months to provide substantial evidence of effectiveness for the indications classified as possibly effective.

No person submitted data in support of Oxsoralen Capsules. Accordingly, in a notice published in the **Federal Register** of April 12, 1973 (38 FR 9256; formerly Docket No. FDC–D–611, now Docket No. 80N–0195), FDA reclassified Oxsoralen Capsules to lacking substantial evidence of effectiveness for the aforementioned indications, proposed to withdraw approval of those parts of NDA 9–048 that provide for Oxsoralen Capsules, and offered an opportunity for a hearing on the proposal.

Paul B. Elder Co. requested a hearing and submitted supporting data.

Upon review of all available evidence, the Director of the Bureau of Drugs concludes that methoxsalen capsules are effective for vitiligo. The other indications classified as lacking substantial evidence of effectivenesss are under review and will be the subject of a future **Federal Register** notice.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug application under conditions described herein.

1. *Form of drug.* The drug product is in capsule form suitable for oral adminstration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

> Methoxsalen in conjunction with ultraviolet light is useful in the treatment of vitiligo.

3. *Marketing Status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before August 11, 1981, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. Under 21 CFR 320.21, the application must include either evidence

demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement, unless such evidence is already waived under 21 CFR 320.22(c). Marketing before approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: March 16, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17409 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0431; DESI 11738]

Oxymorphone Hydrochloride 2-Milligram Rectal Suppositories; Opportunity for Hearing on Proposal To Withdraw Approval of Pertinent Parts of New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice reclassifies oxymorphone hydrochloride 2-milligram suppositories to lacking substantial evidence of effectiveness, proposes to withdraw approval of pertinent parts of the new drug application, and offers an opportunity for a hearing on the proposal.

DATE: Hearing requests due on or before July 13, 1981.

ADDRESS: Communications in response to this notice should be identified with the reference number DESI 11738 and the Docket number appearing in the heading of this notice, and addressed to the Dockets Management Branch, Food and Drug Administration (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 11738) published in the Federal Register of August 26, 1970 (35 FR 13607), FDA announced that oxymorphone hydrochloride suppositories are possibly effective for the relief of moderate to severe pain.

Subsequently, in a notice published in the Federal Register of December 14, 1972 (37 FR 26823), oxymorphone hydrochloride suppositories were temporarily exempted (as Category V) from the time limits established for completing certain phases of the Drug Efficacy Study Implementation (DESI) program. The exemption was granted because this was the only narcotic analgesic in suppository dosage form and this route of administration could be a useful substitute for injections or oral medication. Oxymorphone hydrochloride suppositories were permitted to remain on the market pending completion of scientific studies.

That part of NDA 11–738 pertaining to Numorphan Hydrochloride Rectal Suppositories containing 2 milligrams oxymorphone hydrocholoride; formerly marketed by Endo Laboratories, 1000 Stewart Ave., Garden City, NY 11530.

Endo submitted a study by Dr. William Beaver and a study by Dr. Raymond Silk to demonstrate the effectiveness of the drug product. Another study by R. J. Trudrowski was discontinued and only a preliminary report was submitted.

The study by Dr. Beaver was a double-blind, twin-crossover comparison of the relative analgesic effect of oxymorphone by rectal suppository and intramuscular injection in 194 postoperative patients, of the 136 patients who completed the study, only 8 had been given oxymorphone 2-milligram suppositories. Any results derived from such a small number of patients are inadequate to serve as the basis for any conclusion of the effectiveness of this product and, indeed, Dr. Beaver makes no such claims for the study.

The study by Dr. Silk was a randomized, double-blind, complete crossover analgesic study in 100 postoperative patients comparing oxymorphone 2-milligram and 5-milligram suppositories with hydromorphone 3-milligram and placebo suppositories. This study was able to demonstrate that oxymorphone 5-milligram suppositories produced greater analgesia than the hydromorphone 3-milligram suppositories, while the oxymorphone 2-milligram suppositories and the hydromorphone 3-milligram suppositories produced essentially the same degree of analgesia. All three test drugs showed significant analgesic results compared to the placebo suppositories. Therefore this one study provides evidence of effectiveness for both oxymorphone 5-milligram and 2-milligram suppositories.

As only the Silk study supports the effectiveness of oxymorphone 2-milligram suppositories for the relief of moderate to severe pain, and the results of this study are not confirmed by evidence from any other well-designed study, the oxymorphone 2-milligram suppository is reclassified to lacking substantial evidence of effectiveness. Endo no longer markets the 2-milligram product.

A notice reclassifying the 5-milligram oxymorphone hydrochloride suppositories to effective, based upon the evaluation of the relevant data in the studies mentioned above, and a notice revoking the temporary exemption granted by the December 14, 1972 notice for oxymorphone suppositories, appear elsewhere in this issue of the Federal Register.

On the basis of all the data and information available to him, the Director of the Bureau of Drugs is aware of only one adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) demonstrating the effectiveness of oxymorphone hydrochloride 2-milligram suppositories for use in the relief of moderate to severe pain. Without the submission of a second adequate and well-controlled study designed to determine whether the results of the first are replicable, the agency has no adequate basis for a conclusion that the product is effective.

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of those parts of the new drug application providing for the drug product listed above and all amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to Endo Laboratories, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for

hearing to determine whether it covers any drug products that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the gound for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related or similar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before July 13, 1981 a written notice of appearance and request for hearing, and (2) on or before August 11, 1981, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice must be filed in four copies. Such submissions except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: February 12, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17412 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0431; DESI 11738]

Oxymorphone Hydrochloride 5-Milligram Rectal Suppositories, Drugs for Human Use; Drug Efficacy Study Implementation; Reevaluation

AGENCY: Food and Drug Adminstration (FDA).

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing oxymorphone hydrochloride 5-milligram suppositories for use in the relief of moderate to severe pain, for which it is now regarded as effective.

DATE: Supplements to new drug applications due on or before August 11, 1981; bioavailability data for new drug applications due on or before December 9, 1981.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 11738, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 12A-12.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTRY INFORMATION: In a notice (DESI 11738) published in the **Federal Register** of August 26, 1970 (35 FR 13607), FDA announced that oxymorphone hydrochloride suppostitories are possibly effective for the relief of moderate to severe pain.

Subsequently, in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26823), oxymorphone hydrochloride suppositories were temporarily exempted (as Category V) from the time limits established for completing certain phases of the Drug Efficacy Study Implementation (DESI) program. The exemption was granted because this was the only narcotic analgesic in suppository dosage form and could be a useful substitute for injections or oral medication. Therefore, oxymorphone hydrochloride suppositories were permitted to remain on the market pending completion of scientific studies. The studies have now been completed and evaluated for the following drug products:

NDA 11-738; Numorphan Hydrochloride Rectal Suppositories containing 2 milligrams or 5 milligrams oxymorphone hydrochloride; Endo

Laboratories, 1000 Stewart Ave., Garden City, NY 11530.

The two clinical studies submitted by Endo Laboratories supported the effectivenss of oxymorphone hydrochloride 5-milligram suppostories, but only one supported the effectivenss of the 2 milligram suppositories. Accordingly, the 5-milligram suppositories are being reclassified to effective for the indication described below and the 2-milligram suppositories are regarded as lacking substantial evidence of effectivenss. Endo no longer markets the 2-milligram suppositories. A notice offering an opportinity for hearing on the 2-milligram suppostiories, and a notice revoking the temporary exemption granted by the December 14, 1972 notice for oxymorphone suppositories, appear elsewhere in this issue of the **Federal Register.**

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drugs products.

In addition to the 5-milligram product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to that product. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug product is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in suppository form suitable for rectal administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the relief of moderate to severe pain.

3. *Marketing status.* a. Marketing of such a drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before August 11, 1981, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)). In addition, on or before December 9, 1981, the holder of the application has submitted either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H must be obtained before marketing such a product. The bioavailability regulations (21 CFR 320.21) require any person submitting an abbreviated new drug application after July 7, 1977, to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing before approval of an abbreviated new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: February 12, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17410 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0431]

Oxymorphone Hydrochloride Rectal Suppositories; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of oxymorphone hydrochloride suppositories. The exemption is no longer needed because the question of the drug's effectiveness has been resolved. The 5-milligram product has been classified as effective and the 2-milligram product has been classified as lacking substantial evidence of effectiveness. Under the exemption, the drug was allowed to remain on the market for continued study beyond the time limit scheduled for implementation of the Drug Efficacy Study.

EFFECTIVE DATE: June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In notices appearing elsewhere in this issue of the **Federal Register,** the Director of the Bureau of Drugs is reclassifying 5-milligram oxymorphone hydrochloride suppositories to effective for use in the relief of moderate to severe pain, reclassifying 2-milligram oxymorphone suppositories to lacking substantial evidence of effectiveness, and proposing to withdraw approval of that part of the new drug application pertaining to the 2-milligram suppositories.

These products have been allowed to remain on the market beyond the time limit established for implementing the Drug Efficacy Study (DES) on the condition that the manufacturer undertake additional clinical studies to determine the products' effectiveness. The temporary exemption to permit continued marketing as exempt category V was announced in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623).

The agency has reviewed data that the manufacturer submitted and the question of the products' effectiveness has now been resolved. Therefore, the temporary exemption granted by the December 14, 1972 notice, as it pertains to the following products in the Drug Efficacy Study, is hereby revoked.

NDA 11–738; Numorphan Hydrochloride Rectal Suppositories containing 2 milligrams

or 5 milligrams oxymorphone hydrochloride: Endo Laboratories, 1000 Stewart Ave., Garden City, NY 11530.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: February 12, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17411 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0279]

Oytocin Citrate Buccal Tablets; Rescission of Proposal To Withdraw Approval of New Drug Application; Requirement for Labeling Directed To the Physician

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: this notice announces that oxytocin citrate buccal tablets have been evaluated as safe and effective for use in the induction of labor and treatment of hypotonic uterine contractions. Previously FDA had proposed to withdraw approval of the drug on the ground that it was not shown to be safe. New studies submitted by the sponsor have established the safety of the drug. Nevertheless, FDA is requiring that holders of approved new drug applications submit supplements to provide for revised physician labeling which says that oxytocin citrate buccal tablets are indicated for the medical rather than the elective induction of labor.

DATE: Supplements to approved new drug applications due August 11, 1981.

ADDRESSES: Supplements to new drug applications (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–04, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling compliance (HFD–310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of December 15, 1978 (43 FR 58634), the Director of the Bureau of Drugs announced an opportunity for hearing on a proposal to withdraw approval of the new drug applications for Tocosamine Sterile Solution, Spartocin Injection (NDA's 12–374 and 13–211, both containing sparteine sulfate), and Pitocin Citrate Buccal Tablets (NDA 13–508, containing oxytocin Citrate). Pitocin citrate Buccal Tablets were not in the DESI review, having been approved for marketing after the Drug Amendments of 1962. Only the manufacturer of Pitocin Citrate Buccal Tablets (Parke-Davis, Division of Warner-Lambert Co., Morris Plains, NJ 07950) filed a written notice of appearance and request for a hearing. Consequently, FDA published a notice on August 7, 1979, withdrawing approval of the NDA's of the two sparteine sulfate drugs (44 FR 46316). The notice of August 7, 1979, did not apply to NDA 13–508.

FDA has evaluated the data submitted by Parke-Davis on February 13, 1979, as establishing the safety of buccal oxytocin. The data submitted showed no significant difference between buccal oxytocin and intravenous oxytocin (approved as safe administration of oxytocin) in rate of decay of uterine activity after withdrawal of oxytocin, or in side effects to mother or fetus. Accordingly, those portions of the December 15, 1978 notice of opportunity for hearing applying to oxytocin buccal tablets or NDA 13–508 are rescinded.

The FDA Fertility and Maternal Health Drugs Advisory Committee has concluded that because the buccal and intravenous routes of administration are of comparable safety, the restrictions for the use of buccal pitocin should be the same as those for intravenous administration.

The physician labeling for Oxytocin Injection is required to include the following boxed warning.

IMPORTANT NOTICE

(Name of Drug) is indicated for the medical rather than the elective induction of labor. Available data and information are inadequate to define the benefit-to-risk considerations in the use of the drug product for elective induction. Elective induction of labor is defined as the initiation of labor for convenience in a patient with a term pregnancy who is free of medical indications.

This boxed warning is now also required for buccal tablet preparations of oxytocin. Holders of approved new drug applications for oxytocin citrate buccal tablets shall submit supplements on or before (*insert date 60 days after date of publication in the* Federal Register) to provided for the placement of the above boxed warning at the beginning of physician labeling and any other changes necessary to make the text of the physician labeling consistent with the above boxed warning. Marketing of such drug products that are now the subject of an approved new drug application may be continued provided that a supplement for revised labeling in accord with this notice is submitted on or before (*insert date 60 days after date of publication in the* Federal Register).

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: February 27, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17403 Filed 6-11-81; 10:27 am]

BILLING CODE 4110-03-M

[Docket No. 75N-0187; DESI 10837]

Pro-Banthine With Dartal Tablets; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application (NDA 11–368) for Pro-Banthine with Dartal Tablets containing probantheline bromide and thiopropazate hydrochloride. The basis of the withdrawal is that the drug product lacks substantial evidence of effectiveness. The product has been used as an adjunct in the treatment of peptic ulcer.

EFFECTIVE DATE: June 22, 1981.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 10837 and directed to the Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: J. Peeler, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–433–3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing

published in the Federal Register of February 28, 1978 (43 FR 8185), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the new drug application for Pro-Banthine with Dartal Tablets containing probantheline bromide and thiopropazate hydrochloride. In response to the notice, G. D. Searle & Co. requested a hearing, but later withdrew the request. Approval of the following new drug application is now being withdrawn.

NDA 11-368; Pro-Banthine with Dartal, containing probantheline bromide and thiopropazate hydrochloride; Searle Laboratories, Division of G. D. Searle & Co., Box 5100, Chicago, IL 60680.

Any drug product that is identical, related, or similar to the drug product named above and that is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. Therefore, pursuant to the foregoing finding, approval of NDA 11-368 and all amendments and supplements applying thereto is withdrawn effective June 22, 1981.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: March 23, 1981.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 81-17406 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

Request for Nominations for Voting Members on Public Advisory Committees or Panels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for voting members to serve on certain public advisory committees or panels of the Bureau of Medical Devices. Nominations will be accepted for current vacancies and those that will or may occur during the next 12 months. FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 4 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESS: All nominations and curricula vitae for the voting members of the respective advisory committee or panel must be sent to: Kay A. Levin, Bureau of Medical Devices (HFK-50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7076.

FOR FURTHER INFORMATION CONTACT:

For Device Good Manufacturing Practice Advisory Committee: Lincoln I. Gluscevich, Bureau of Medical Devices (HKF-132), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7194.

For Medical Devices Panels and Sections: Mary Jo Lyons, Bureau of Medical Devices (HFK-401), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-472-7445.

SUPPLEMENTARY INFORMATION: FDA requests nominations for voting members as follows:

1. Device Good Manufacturing Practice Advisory Committee:
   a. Health Professional 1 vacancy 5/13/81
2. Circulatory System Devices Panel: 2 vacancies immediately; 1 vacancy 6/30/81
3. Surgical and Rehabilitation Devices Panel:
   a. General and Plastic Surgery Device Section: 4 vacancies 8/31/81
   b. Orthopedic Device Section: 1 vacancy immediately
   c. Physical Medicine Device Section: 2 vacancies immediately; 1 vacancy 8/31/81
4. Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel:
   a. Ophthalmic Device Section: 2 vacancies 10/31/81
   b. Ear, Nose, and Throat Device Section: 4 vacancies 10/31/81
   c. Dental Device Section: 2 vacancies immediately; 1 vacancy 10/31/81
5. Respiratory and Nervous Systems Devices Panel:
   a. Anesthesiology Device Section: 2 vacancies immediately; 3 vacancies 11/30/81
   b. Neurological Device Section: 1 vacancy immediately; 2 vacancies 11/30/81
6. General Medical Devices Panel:
   a. General Hospital and Personal Use Device Section; 2 vacancies immediately; 3 vacancies 12/31/81
   b. Gastroenterology and Urology Device Section: 1 vacancy immediately; 3 vacancies 12/31/81
7. Obstetrics-Gynecology and Radiologic Devices Panel:
   a. Radiology Device Section: 2 vacancies immediately; 2 vacancies 1/31/82
8. Clinical Chemistry and Hematology Devices Panel:
   a. Clinical Chemistry Device Section: 2 vacancies immediately
   b. Clinical Toxicology Device Section: 3 vacancies immediately; 1 vacancy 2/28/82
   c. Hematology and Pathology Device Section: 2 vacancies immediately; 1 vacancy 2/28/82
9. Immunology and Microbiology Devices Panel:
   a. Immunology Device Section: 2 vacancies immediately
   b. Microbiology Device Section: 3 vacancies immediately; 2 vacancies 2/28/82

Device Good Manufacturing Practice Advisory Committee

In accordance with the Medical Device Amendments of 1976 (Pub. L. 94-295), the function of the Device Good Manufacturing Practice Advisory Committee is to review regulations proposed for promulgation regarding good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and make recommendations to the Commissioner of Food and Drugs regarding the feasibility and reasonableness of those proposed regulations. The committee also advises the Commissioner with regard to exemptions or variances from good manufacturing practice regulations.

Medical Devices Panels

The functions of the medical devices panels and sections are to (1) review and evaluate available data concerning the safety and effectiveness of medical devices currently in use, (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories, (3) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category, (4) advise

on any possible risks to health associated with the use of devices, (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category, (6) review classification of devices to recommend changes in classification as appropriate, (7) recommend exemption to certain devices from the application of portions of the act, (8) advise on the necessity to ban a device, and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Qualifications

Persons nominated for the health professional vacancy on the Device Good Manufacturing Practice Advisory Committee should have expertise in any one or more of the following areas: quality assurance concerning manufacturing of medical devices and/or sterilization of medical devices during the manufacturing process. Persons nominated for membership on this committee as well as the medical devices panels or sections shall have adequately diversified experience appropriate to the work of the committee, panel, or section in such fields as clinical and administrative medicine, engineering, biological and physical sciences, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee, panel, or section. The term of office is approximately 3 years.

Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees, panels, or sections. Self nominations are also accepted. Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. To permit evaluation of possible sources of conflict of interest, FDA will ask the potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: June 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regualtory Affairs.

[FR Doc. 81-17415 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

Request for Nominations for Representatives of Consumer and Industry Interests on Public Advisory Committees or Panels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) invites nominations for consumer and industry representatives to serve on certain public advisory committees or panels of the Bureau of Medical Devices. Nominations will be accepted for current vacancies and for those that will or may occur during the next 12 months. FDA has a special interest in ensuring that women, minority groups, the physically handicapped, and small businesses are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates, and nominations from small businesses that manufacture medical devices subject to the regulations.

DATE: Nominations should be received by July 13, 1981, for vacancies listed in this notice.

ADDRESS: All nominations and curricula vitae for consumer representatives must be submitted in writing to the Associate Commissioner for Consumer Affairs (HFE–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. All nominations and curricula vitae for industry representatives must be submitted in writing to Kay A. Levin, Bureau of Medical Devices (HFK–50), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For Consumer Interests: Naomi Kulakow, Office of Consumer Affairs (HFE–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006. For Industry Interests: Mary Jo Lyons, Bureau of Medical Devices (HFK–401), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: FDA requests nominations for members representing consumer and industry interests for the following committee, panels or sections:

Committee, panel/section	Approximate date representative needed	
	Consumer	Industry
1. Device Good Manufacturing Practice Advisory Committee.	NA	5/31/81
2. Surgical and Rehabilitation Devices Panel:		
a. Orthopedic Device Section Immediately.		8/31/81
b. Physical Medicine Device Section.	8/31/81	NA.
c. General and Plastic Surgery Device Section.	8/31/81	8/31/81.
3. Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel:		
a. Ophthalmic Device Section Immediately.		10/31/81.
b. Ear, Nose and Throat Device Section.	NA	10/31/81.
4. Respiratory and Nervous Systems Devices Panel:		
a. Anesthesiology Device Section.	11/30/81	11/30/81.
5. General Medical Devices Panel:		
a. Gastroenterology and Urology Device Section.	12/31/81	NA.
b. General Hospital and Personal Use Device Section.	NA	12/31/81.
6. Obstetrics-Gynecology and Radiologic Devices Panel:		
a. Radiology Device Section.	NA	1/31/82.
7. Clinical Chemistry and Hematology Devices Panel:		
a. Hematology and Pathology Section.	2/28/82	2/28/82.

Device Good Manufacturing Practice Advisory Committee

In accordance with the Medical Device Amendments of 1976 (Pub. L. 94–295, 90 Stat. 539–583), the function of the Device Good Manufacturing Practice Advisory Committee is to review regulations proposed for promulgation regarding good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and make recommendations to the Commissioner of Food and Drugs regarding the feasibility and reasonableness of those proposed regulations. The committee also advises the Commissioner with regard to exemptions or variances from good manufacturing practice regulations.

Medical Devices Panel

The functions of the medical devices panels and sections listed above are to (1) review and evaluate available data concerning the safety and effectiveness of devices currently in use (2) advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories (3) recommend the assignment of a priority for the application of regulatory requirements

for devices classified in the standards or premarket approval category (4) advise on any possible risks to health associated with the use of devices, (5) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category (6) review classification of devices to recommend changes in classification as appropriate (7) recommend exemption to certain devices from the application of portions of the act (8) advise on the necessity to ban a device, and (9) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Consumer and Industry Representation

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that each medical device panel include as members one representative of consumer interests and one representative of interests of the device manufacturing industry. Each of the sections identified in this notice will also have a representative of consumer interests and representatives of industry interests. These representatives will be nonvoting members. Section 520 of the act (21 U.S.C. 360j) provides that the Device Good Manufacturing Practice Advisory Committee will have two members to represent the device manufacturing industry and two members to represent the general public. These four representatives will be voting rather than nonvoting members of the committee.

Nomination Procedure

Any interested person may nominate one or more qualified persons as a member of a particular advisory committee, panel, or section to represent consumer interests as identified in this notice. Any organization in the medical device manufacturing industry ("industry interests") wishing to participate in the selection of an appropriate member of a particular committee, panel, or section may nominate one or more qualified persons to represent industry interests. Persons who nominate themselves as industrial representatives are not included in the selection process. It is, therefore, recommended that all nominations be made by an organization or firm. Nominations shall include a complete curriculum vitae of each nominee and shall state that the nominee is aware of the nomination, is willing to serve as a member, and, in the case of consumer representative, appears to have no conflict of interest. The nomination should state whether the nominee is interested only in a particular advisory committee, panel, or section or in any advisory committee, panel, or section. The term of office is approximately 3 years.

Selection Procedure

The agency has instituted, on a trial basis, a new selection process for members representing consumer interests. This process temporarily replaces the procedures set out in 21 CFR 14.84(c). The voting groups that have previously elected consumer representatives have selected a consortium of consumer organizations. This consortium recommends two candidates to the agency, and agency staff makes the final selection.

Regarding nominations for members representing the interests of the device manufacturing industry, a letter will be sent to each organization that has made a nomination, and to those organizations indicating an interest in participating in the selection process, together with a complete list of all such organizations and the nominees. This letter will state that it is the responsibility of each organization to consult with the others in selecting a single member representing industry interests for that particular committee within 60 days after receipt of the letter.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: June 5, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17418 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

[Docket Nos. 75N-0139, 75N-0139F]

Wilzyme Tablets and Chymolase Tablets; Withdrawal of Approval of Parts of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of those parts of Inolex Corporation's new drug application (NDA) that pertain to Wilzyme Tablets and Chymolas Tablets (NDA 12-724) because the holder of NDA failed to file a written notice stating its intent to participate in a formal evidentiary public hearing. The drug products have been used to control edema and inflammation associated with various disorders.

ADDRESS: Requests for an opinion on the applicability of this notice to a specific drug product should be directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

EFFECTIVE DATE: June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Margery Erickson, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9955) published in the **Federal Register** of June 25, 1970 (35 FR 10393), following the evaluation of reports received from the National Academy of Sciences/National Research Council Drug Efficacy Study Group, FDA announced its conclusion that the oral proteolytic enzyme drug, Wilzyme, was "possibly effective" and "lacked substantial evidence of effectiveness," and that additional evidence was required to establish its effectiveness. In response to this notice, the manufacturer submitted data intended to establish effectiveness. After reviewing the data, the Director of the Bureau of Drugs, in a notice of opportunity for hearing published in the **Federal Register** of July 24, 1975 (40 FR 30995), concluded that Wilzyme and Chymolase (a preparation also provided for in NDA 12-724) lacked substantial evidence of effectiveness for all indications and proposed to withdraw approval of the new drug application.

In response to the notice of opportunity for hearing, the holder of the new drug application, Inolex Corporation (formerly Wilson Pharmaceutical and Chemical Corp.) 2600 Bond St., Park Forest South, Chicago, IL 60466, and the distributor for Chymolase, Warren-Teed Pharmaceuticals, Inc., subsidiary of Rohm & Haas Co., 582 W. Goodale St., Columbus, OH 43215, requested a hearing for Wilzyme and Chymolase.

In a **Federal Register** notice of December 21, 1979 (44 FR 75718), FDA ordered a formal evidentiary hearing for the drugs because there were questions of fact requiring resolution. However, not one filed a notice of participation on behalf of Wilzyme or Chymolase. Accordingly, in the **Federal Register** of February 20, 1981 (46 FR 13374), FDA issued a notice withdrawing approval of that part of NDA 12-724 pertaining to Chymolase Tablets for failure of the holder of the NDA to file a written notice of intent to participate in the hearing. Inadvertently, the notice did not include that part of NDA 12-724

pertaining to Wilzyme Tablets and incorrectly referred to Warren-Teed as the holder of NDA 12-724. Therefore, the notice of February 20, 1981, is amended to announce the withdrawal of approval of those parts of Inolex Corporation's NDA 12-724 pertaining to both Wilzyme and Chymolase.

FDA has determined that approval of Inolex Corporation's NDA should be withdrawn as it relates to Wilzyme and Chymolase because (1) there is a lack of substantial evidence that Wilzyme Tablets and Chymolase Tablets have the effects they are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling; (2) there is a lack of substantial evidence that each component of Wilzyme Tablets and Chymolase Tablets, both combination products, contributes to the total effects claimed; and (3) Inolex Corp. and Warren-Teed Pharmaceuticals, Inc., failed to file a written notice of intent to participate in the hearing which was the subject of the December 21, 1979, notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), approval of those parts of NDA 12-724 pertaining to Wilzyme Enteric-Coated Tablets and Chymolase Enteric-Coated Tablets is withdrawn, effective June 22, 1981. Approval of all parts of NDA 12-724 has now been withdrawn.

Dated: June 3, 1981.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-17402 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-03-M

National Institutes of Health

Cellular and Molecular Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on June 29-30, 1981, at the Chevy Chase Holiday Inn, Lobby Conference Room, Chevy Chase, Maryland.

This meeting will be open to the public on June 29, 1981, from 8:30 a.m. until 10:00 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 29, 1981, from 10:00 a.m. until 6:00 p.m. and on June 30, 1981, from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496-7301) will provide a summary of the meeting and a roster of committee members.

Dr. Carl D. Rhodes, Executive Secretary, Cellular nad Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 950, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496-7125) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-863, Cellular and Molecular Basis of Disease Research)

Note.—NIH programs not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: June 2, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-17443 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-08-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, June 22, 1981, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 8, Bethesda, Maryland 20205.

This meeting will be open to the public on June 22, from 8:00 a.m. to approximately 8:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 22 from 8:30 a.m until adjournment on June 22 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Charles L. Turbyfill, Executive Secretary, National Heart, Lung, and Blood Institute, Westwood Building, Room 553, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7351, will furnish substantive program information.

Dated: June 2, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

[FR Doc. 81-17444 Filed 6-11-81; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-81-1070]

Privacy Act of 1974; New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: The system shall become effective without further notice on July 13, 1981 unless comments are

received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-755-5333. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The system is Home Repair Service for the Elderly: Baltimore Sample Data File which will contain information about sample individuals contacted or attempted to be contacted in the first wave of this study in the summer of 1979. The purpose for establishing the system of records is to undertake a second wave of interviewing and home repair observations using a longitudinal panel research design that allows the analysis of change over time. The purpose of this second wave of data collection is to evaluate the long-term effects of participation in a subsidized home maintenance program on the state of repair of the housing stock and the well-being of the residents. The specific objectives include: (1) evaluating the effects of the Home Maintenance Program on the state of repair of elderly homeowners' housing units; (2) evaluating the effects of the program on the personal well-being of elderly homeowners; (3) evaluating the effects of the program on repair and maintenance decisions; (4) examining participants' evaluations of specific features of the Home Maintenance Program. All of the information analyzed and reported will be representative of the groups of participants and non-participants and not of any specific individuals. Appendix A, which lists the addresses of HUD's Offices, was published at 45 FR 67626 (October 10, 1980). A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on April 28, 1981.

HUD/PD&R-10

System name:

Home Repair Service for the Elderly: Baltimore Sample Data File.

System location:

Institute for Social Research, The University of Michigan, Ann Arbor, Michigan 48106.

Categories of individuals covered by the system:

Elderly homeowners who are participating in the Baltimore Home Maintenance Project and a control sample of elderly homeowners in Baltimore who are not participating in the Baltimore Home Maintenance Project.

Categories of records in the system:

The files will contain the following information on some, or all, of the sample points: street address, Zip Code, telephone number, name of eligible sample member, identification link to the interview, and observation information such as family structure, health status, dwelling unit condition, and repair needs.

Authority for maintenance of the system:

Title V of the Housing and Urban Development Act of 1970, as amended, Sections 501 and 502.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

To HUD contractor—for program evaluation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

In file folders and on magnetic tape/disk/drum.

Retrievability:

Name, address, telephone number.

Safeguards:

Manual files will be kept in lockable cabinets in a secured area; computer records will be maintained in a separate secured area. Access to either type of record will be limited to authorized personnel.

Retention and disposal:

Personal identifiers will be destroyed after data have been collected and unified. Retention and disposal shall be in accordance with HUD Handbook 2225.6.

System manager(s) and address:

Director, Division of Housing Management and Special Users Research, TRS, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. (ii) In relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Subject individuals, Professional Assessment Committee, Project Managers.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., June 5, 1981.

Albert J. Kliman,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 81-17517 Filed 6-11-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Int NOI]

Ellis-Pahsimeroi; Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare and consider an environmental impact statement (EIS) and invitation for public participation (scoping).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM will prepare and consider an EIS for proposed grazing management in the Ellis-Pahsimeroi Planning Unit in central Idaho. All affected Federal, State and local agencies; affected organizations and

individuals and interested people are invited to participate in preparation of the EIS.

DATE: Two open houses will be held at the Salmon BLM District Office in Salmon, Idaho from 7 p.m. to 9 p.m. on June 24, 1981 and at the American Legion Hall in Challis, Idaho from 7 p.m. to 9 p.m. on June 25, 1981. Written comments may be submitted at the open house or mailed to the Salmon District Office no later than July 6, 1981.

ADDRESS: Comments should be sent to: District Manager, Ellis-Pahsimeroi EIS, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT: Jerry Wilfong, EIS Team Leader, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: The Salmon District will prepare an EIS on the allocation of available forage on approximately 380,500 acres of public lands located in Custer and Lemhi Counties in central Idaho.

The proposed action will be based on multiple-use recommendations that were developed in the land use plan (Management Framework Plan) for the Ellis-Pahsimeroi Planning Unit. The multiple-use recommendations provide direction for maintaining and improving the vegetation, wildlife, soils and water resources by (1) adjusting livestock grazing to the inventoried carrying capacity, (2) implementing changes in grazing systems where deemed necessary, and (3) constructing additional range management facilities and conducting vegetation manipulations on selected areas.

Known alternatives to the proposed action which will be analyzed in the EIS are:

1. No change or continuation of the present grazing systems and levels of livestock use.

2. No grazing or complete removal of all livestock from public lands.

3. Maximum livestock utilization or grazing at a higher level than the proposed action and existing preference. No allocation of forage for wildlife or other uses.

4. Optimize wildlife and nonconsumptive uses or grazing at a lower level than the proposed action. Maximum allocation of forage for wildlife and nonconsumptive uses. Livestock allocations held at or below the existing preference.

A scoping process will be conducted in order to determine the significant issues to be analyzed in depth and to eliminate the less significant issues from detailed study. This scoping process will include a review of public comments and suggestions already received, a specific request by mail to interested parties for additional suggestions, and two open houses. Handouts for the open houses will include a draft of the proposed action and alternatives. All participants will be encouraged to identify significant issues or additional issues or additional alternatives which should be addressed in the EIS.

Jerry W. Goodman,

Acting District Manager.

[FR Doc. 81-17419 Filed 6-11-81; 8:45 am]

BILLING CODE 4310-84-M

South Dakota; Redelegation of Authority

June 5, 1981.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Section 3.1 and Section 3.6(m) of Bureau Order 701, as amended, authorize District Managers to redelegate their authority over oil and gas exploration operations within their jurisdiction.

Said authority, to the extent described below, is hereby redelegated to the detached South Dakota Resource Area Headquarters in Belle Fourche for well-drilling activities on Federal oil and gas leases in South Dakota:

1. Verifying existence and content of lease stipulations.

2. Granting staking permission to operator.

3. Representing Bureau of Land Management at on-site inspections prior to drilling and all subsequent inspections.

4. Preparing and signing stipulation memos to USGS regarding surface protection measures for Applications For Permit To Drill and Sundry Notices.

5. Conducting compliance inspections and preparing appropriate file documentation.

6. Providing environmental assessment information to USGS upon request.

7. Maintaining official case files.

8. Short-term temporary road rights-of-way issued for a period of not more than two years.

EFFECTIVE DATE: This redelegation will become effective July 13, 1981.

FOR FURTHER INFORMATION CONTACT: Montana State Office, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107 (406)657-6291.

Michael J. Penfold,

State Director.

[FR Doc. 81-17420 Filed 6-11-81; 8:45 am]

BILLING CODE 4310-84-M

Utah; Notice of Invitation To Participate in Coal Exploration Program-Northwest Carbon Corp.

June 4, 1981.

Northwest Carbon Corporation, a wholly-owned subsidiary of Northwest Energy Company, is inviting all qualified parties to participate in a program for the exploration of coal reserves on Tie Fork, near Hiawatha, Utah. The lands are located in Emery County, Utah and are described as follows:

T. 15 S., R. 7 E., SLM, Utah,
Sec. 34, all.
T. 16 S., R. 7 E., SLM, Utah,
Sec. 1, W½;
Sec. 2, all.
Containing 1,577.40 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Mr. Peter Matthies, Vice President, Northwest Carbon Corporation, P.O. Box 1526, Salt Lake City, Utah 84110. Such written notice must be received on or before July 13, 1981.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all costs on a pro rata basis. A copy of the exploration plan as submitted by Northwest Carbon Corporation, is available for public review during normal business hours, in the following office, under Serial No. U-48658: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Robert E. Anderson,

Chief, Division of Technical Services.

[FR Doc. 81-17421 Filed 6-11-81; 8:45 am]

BILLING CODE 4310-84-M

Issues of Concern and EIS Team Challis Wilderness Amendment

Notice is hereby given that the following Issues of Concern relating to a Wilderness Suitability Amendment to the Challis Management Framework Plan (MFP) have been identified through public comments received.

Issues of Concern

Identified wilderness issues are:

(1) Idaho has an oversupply of existing wilderness and does not need any more.

(2) The possible effect of wilderness designations on existing uses—i.e. grazing, hunting, ORV, mining, etc.

(3) Wilderness designations are perceived as "locking-up" public land areas and mineral resources.

(4) The BLM and Forest Service should jointly study their Boulder Creek units for wilderness suitability.

(5) Potential wilderness areas are being impaired by unregulated vehicle (ORV) use.

(6) There is a need for lands designated as wilderness to offset lands being developed.

(7) Public lands should be opened to multiple use and development to offset areas designated as wilderness.

(8) How can wildlife best be managed—wilderness or non-wilderness?

Environmental Impact Statement Team

A category II MFP Amendment requiring an Environmental Impact Statement (EIS) will now be written to formulate recommendations as to wilderness suitability or non-suitability of the four wilderness study areas involved and to respond to the issues identified.

The following EIS Team has been identified:

Dave Wolf—Team Leader—Recreation, Wilderness
Brad Keller—Wildlife
Bill Osborne—Range
Lamar Taylor—Range
Ben Garechana—Wild Horse
Dave Douglas—Geology, Minerals
Don Simpson—Lands
Nancy Vaughan—Archeology

Future notices will be given as the draft and final E.I.S. documents are available for review.

For more information contact: District Manager, Salmon District, BLM, P.O. Box 430, Salmon, Idaho 83467, 208–756–2201.

Dated: June 5, 1981.

Jerry W. Goodman,

Acting District Manager.

[FR Doc. 81-17607 Filed 6-11-81; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Allen Camp Unit, Pit River Division, Central Valley Project, California; Notice of Intent To Prepare an Environmental Statement: Withdrawal

The Bureau of Reclamation published a Notice of Intent to Prepare an Environmental Statement on the Allen Camp Unit, Pit River Division, Central Valley Project, California on April 23, 1979. Because the proposed project was not economically feasible, the investigation was terminated and a concluding report was released to the public on May 27, 1981. Since the investigation has been terminated we are withdrawing the notice of intent and do not plan to prepare an environmental statement.

Dated: June 8, 1981.

Clifford I. Barrett,

Assistant Commissioner.

[FR Doc. 81-17396 Filed 6-11-81; 8:45 am]

BILLING CODE 4310-09-M

Contract Negotiations With the Hidalgo County Water Improvement District No. 5, Progreso, Tex.; Intent To Negotiate an Amendatory Loan Escalation Repayment Contract

The Department of the Interior, through the Bureau of Reclamation, intends to enter negotiations with the Hidalgo County Water Improvement District No. 5 (district), Progreso, Texas, to amend its Small Reclamation Projects Act loan repayment contract. The proposed amendatory contract covering cost escalation will be prepared pursuant to the Small Reclamation Projects Act of 1956 (Public Law 984, 84th Congress, 70 Stat. 1044), as amended, and other Reclamation law provisions.

The original contract between the district and the United States was executed on September 27, 1976, in the amount of $3,850,000; however, recent inflationary trends have caused construction costs to escalate to the extent that an additional $1 million is needed to complete project construction. The proposed amendatory contract will obligate the district to repay the total cost of the loan to the United States during a repayment period which will be negotiated. Negotiations must be completed before loan funds can be expended.

All meetings scheduled by the Bureau with the district for the purpose of discussing terms and conditions of the proposed amendatory contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meetings. All written correspondence concerning the proposed amendatory contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comment on the form of the proposed contract not later than 30 days after the completed draft is declared available to the public. Unless significant interest is evidenced in the negotiations, the availability of the contract for public review and comment will not be publicized.

Written comments and requests for information concerning these contract negotiations should be directed to Mr. William E. Berg, Jr., Repayment and Economics Branch, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, Texas 79101, telephone (806) 378–5430.

Dated: June 5, 1981.

Aldon D. Nielsen,

Acting Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 81-17397 Filed 6-11-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OPY-3-089]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: June 5, 1981.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and

payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,

Secretary.

MC-F-14631, filed May 11, 1981. ROBERT L. McCOY (515 South Judgement Street, Shullsburg, WI 53586) and RAYMOND M. HANNA (1115 East Lincoln Street, Belvidere, IL 61008—(Individuals)—CONTINUANCE IN CONTROL—G.M.C. MOTOR TRUCK SALES, INC.—LAND OVER TRANSPORTATION DIVISION—INITIAL COMMON CARRIER (P.O. Box 693, Dubuque, IA 52001). Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority is sought by Robert L. McCoy (McCoy) and Raymond M. Hanna (Hanna) to continue in control of G.M.C. Motor Truck Sales, Inc Land Over Transportation Division, Dubuque, IA. McCoy and Hanna presently control Mc-Mor-Han Trucking Co., Inc., P.O. Box 368, Shullsburg, WI 53586, a motor common and contract carrier. The operating rights of Mc Mor Han Trucking Co., Inc., are contained in Certificate No. MC-136774 and Permit No. MC-143029. The Certificate authorizes the transportation of specified commodities over irregular routes between points in the U.S. In Permit No. MC-143029, it is authorized to transport specified commodities between points in the U.S., under continuing contracts with Eagle Picher Industries, Inc., of Reno, NV, Kraft, Inc., of Chicago, IL, Jewel Companies, Inc., of Melrose Park, IL, and Wis Pak, Inc., of Watertown, WI. Simultaneously, G.M.C. Motor Truck Sales, Inc.—Land Over Transportation Division has filed an application for a Certificate authorizing the transportation of *metal products* and *building materials,* between points in Jones County, IA, on the one hand, and, on the other, points in the U.S. The application, docketed as No. MC-155774, is published in this same **Federal Register** issue.

[FR Doc. 81-17391 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OPY-3-090]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: June 5, 1981.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action signficantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 155774, filed May 11, 1981. Applicant: G.M.C. MOTOR TRUCK SALES, INC.—LAND OVER TRANSPORTATION DIVISION, P.O.

Box 693, Dubuque, IA 52001. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603, (312) 236-9375. Transporting *metal products* and *building materials*, between points in Jones County, IA, on the one hand, and, on the other, points in the U.S.

Note.—This application is directly related to MC-F-14631, published in this same Federal Register issue.

[FR Doc. 81-17302 Filed 6-11-81; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-94F)]

Burlington Northern, Inc.—Abandonment—Between Davis Spur and Ripley, MN; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that on June 3, 1981, the Commission issued a certificate authorizing Burlington Northern, Inc. to abandon its rail line between Davis Spur (milepost 133.97) and Camp Riley (mile post 114.02) in Crow Wing and Morrison Counties, MN, a total distance of 19.95 miles, subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979); and subject to the further condition that Burlington Northern shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts, for a period of 120 days from this date to permit any State or local government agency or other interested party to negotiated the acquisition for public use of all or any portion of the right-of-way. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the effectiveness of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17430 Filed 6-11-81; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-95)]

Burlington Northern Inc.—Abandonment—Between Barnesville and Downer, MN; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that on June 4, 1981, the Commission issued a certificate authorizing Burlington Northern Inc. to abandon its rail line between Barnesville (milepost 5.38) and Downer (milepost 9.09) in Clay County, MN a total distance of 3.71 miles, subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979); and subject to the further condition that Burlington Northern shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts, for a period of 120 days from this date to permit any State or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days after publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the effectiveness of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17428 Filed 6-11-81; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-33) F]

Chesapeake and Ohio Railway Company—Abandonment—Between Manistee and Bay View and Between Traverse City and Rennies, MI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated June 5, 1981, the Commission, Review Board Number 3, found that the public convenience and necessity require or permit abandonment by the Chesapeake and Ohio Railway Company of two lines of railroad specifically (a) the line of railroad extending between Valuation Station 133+00 (milepost 113.68) near Manistee and Valuation Station 19985+91 (milepost 247.98) at Bay View, a distance of 134.30 miles in the Counties of Manistee, Benzie, Grand Traverse, Kalkasa, Antrim, Charlevoix and Emmet, and (b) the line of railroad extending between Valuation Station

3784+44 (milepost 0.00) at Traverse City and Valuation Station 3638+00 (milepost 2.77) at Rennies, a distance of 2.77 miles in the Counties of Grand Traverse and Leelanau, a total distance of 137.07 miles, subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979); and the further requirement that the C&O shall keep intact all of the right-of-way, track bridges and drainage culverts for a period of 120 days to permit any state or local government agency or other interested persons to negotiate the acquisition for public use of all or any portion of this property. A certificate of abandonment will be issued permitting the abandonment unless within 15 days from the date of this publication the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the issuance of an abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions and amount of compensation, an abandonment certificate will be issued. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the issuance of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17429 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtilte IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol. No. OPY-3-087

Decided: June 4, 1981.

MC 117685 (Sub-7), filed May 28, 1981. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201)-435-7140. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 142664 (Sub-9), filed May 28, 1981. Applicant: IMPORT DEALERS SERVICE CORPORATION, 2222 East Sepulveda Blvd., Long Beach, CA 90810. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703)-525-4050. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 150975 (Sub-2), filed May 28, 1981. Applicant: DORVAL CORP., 1201 Corbin St., Elizabeth, NJ 07201. Representative: George A. Olsen, P.O. Box 357, Glandstone, NJ 07934, (201)-435-7140. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods,

hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 155885 (Sub-1), filed May 26, 1981. Applicant: GARFIELD TRANSFER CO., INC. d.b.a. GARFIELD TRUCK LINES, 200 SW 34th St., P.O. Box 800, Renton, WA 98055. Representative: Josephine W. Frandsen (same address as applicant), (206)–251–8395. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 156164, filed May 28, 1981. Applicant: AMERICAN COURIER, LTD., 88 Purchase St., Rye, NY 10580. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. (201)–435–7140. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one pacakage exceeds 100 pounds, between points in the U.S.

MC 156165, filed May 28, 1981. Applicant: ADVANCED ENVIRONMENTAL TECHNOLOGY CORPORATION, 520 Speedwell Ave., Morris Plains, NJ 07950. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201)–435–7140. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Vol. No. OPY–4–182

Decided: June 5, 1981.

MC 1156156, filed May 27, 1981. Applicant: FLORIAN ROLL, P.O. Box 1012, Detroit Lakes, MN 56501. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 156157, filed May 28, 1981. Applicant: NATCO, INC., P.O. Box 231, 10 Cayuga Court, Springfield, NJ 07081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. As a *broker of general commodities* (except household goods), between points in the U.S.

Vol. No. OPY–4–188

Decided: June 8, 1981.

MC 156237, filed May 29, 1981. Applicant: ARLIS B. WADE, 2932 W. Dakota St., Tucson, AZ 85706. Representative: Sharon L. Wade (same address as applicant), (602) 883–4671. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Vol. No. OPY–4–190

Decided: June 8, 1981.

MC 28956 (Sub-25), filed May 29, 1981. Applicant: McKAY'S TRUCK LINE, INC., P.O. Box 634, Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

[FR Doc. 81–17426 Filed 6–11–81; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP3–237]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: June 5, 1981.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirement oif Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 143594 (Sub-29), filed Jan. 29, 1981, previously published in the **Federal Register** issue of February 24, 1981. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of dispersing agents, between the facilities of Armak Pioneer Chemical Division, located at points in the U.S., on the one hand, and, on the other, points in U.S.

Note.—This republication modifies the commodity and territorial description.

[FR Doc. 81–17431 Filed 6–11–81; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–125 (Sub-3F)]

Norfolk Southern Railway Co.—Abandonment—Between York and Clover, SC; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that on June 2, 1981, the Commission issued a certificate authorizing the Norfolk Southern Railway Company to abandon its rail line between York (milepost HG 26.7) and Clover (milepost HG 32.0) in York

County, SC, a total distance of 5.3 miles, subject to the conditions for employee protection provided in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979); and subject to the further condition that Norfolk Southern shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts, for a period of 120 days from this date to permit any State or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Upon notification to the Commission of the execution of a subsidy or purchase agreement, the Commission shall further postpone the effectiveness of a certificate for such time as the agreement is in effect. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17427 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: June 9, 1981.

In our recent decisions, an 18.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 18.3-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.5-percent. All owner-operators are to receive compensation at this level.

No change is authorized on the 2.1-percent surcharge for United Parcel Service. However, the surcharges on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, and on bus carrier traffic is reduced to 3.1 and 6.8 percent, respectively.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m., June 12, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioners Trantum and Gilliam were absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)

January 1, 1979 ..... 63.5¢

Date of current price measurement and price per gallon (including tax)

June 8, 1981 ..... 132.4¢

	Transportation performed by—			
	Owner-operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent—fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
	Percent surcharge			
developed	16.3	3.1	6.8	[3] 2.9
Percent surcharge allowed	18.5	3.1	6.8	[4] 2.1

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-17541 Filed 6-11-81; 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: Jack F. Corse, Inc., Cambridge, Vermont 05444.

2. Wholly-owned subsidiary which will participate in the operations, and State of Incorporation: Corse Transport, Inc., incorporated in the State of Vermont.

1. Parent corporation and address of principal office: Safeway Stores, Incorporated, Oakland, CA 94660.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

i. Safeway Holdings, Inc., a Delaware Corporation
ii. Safeway Stores, Inc., of Wyoming, a Wyoming Corporation
iii. Glencourt, Inc., a Delaware Corporation
iv. Canada Safeway, Limited, a Canadian Corporation

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17542 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2. Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol. OPY–4–186

Decided: June 8, 1981.

MC 59396 (Sub-35), filed May 28, 1981. Applicant: BUILDERS EXPRESS, INC., Access Road, Route 78, P.O. Box 5219, Clinton, NJ 08809. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *commodities in bulk*, between points in ME, VT, NH, MA, RI, CT, NY, NJ, DE, MD, VA, WV, PA, OH, and DC.

MC 74176 (Sub-4), filed May 29, 1981. Applicant: WILES TRANSPORT, INC., 16901 Van Dam Rd., South Holland, IL 60473. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236–8225. Transporting *such commodities* as are dealt in by grocery and food business houses, between Chicago, IL, on the one hand, and, on the other, points in KY, MO, KS, IA, WI, MN, NE, IN, MI, and TN.

MC 124896 (Sub-104), filed May 28, 1981. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne & Ralston Sts., P.O. Box 3486, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N St., NW, Suite 700, Washington, DC 20036, (202) 331–8800. Transporting *machinery*, between points in Charleston County, SC, De Kalb, Fulton and Jefferson Counties, GA, Hennepin County, MN, El Paso, TX, and Wake and Wilson Counties, NC.

MC 145906 (Sub-5), filed May 29, 1981. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Columbia, TN 38401. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting (1) *metal products*, (2) *ores and minerals* and (3) *coal and coal products*, between points in IL, IN, OH, KY, TN, AL, GA, LA, MS, PA, AR, VA, WV, NC, SC, NY, NJ, MI, WI, and MO.

MC 156206, filed May 27, 1981. Applicant: CITY TAXI, INC., 28 N. Highland St., Winchester, KY 40391. Representative: William L. Willis, Suite 708, McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting (1) *metal products*, and (2) *plastic and plastic products*, between the facilities of Bundy Corporation, Tubing Division in Clark County, KY, and Norris Industries, Auto Trim Division, in Jessamine County, KY, on the one hand, and, on the other, points in IL, IN, MI, MO, NC, OH, TN, VA, and WV.

Vol. No. OPY–4–189

Decided: June 8, 1981.

MC 140986 (Sub-18), filed May 28, 1981. Applicant: GREAT NORTHERN TRUCK LINES, INC., Love Lane, P.O. Box 112, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *adhesives, building materials, composition boards, gypsum products, gypsum board paper, mineral fiber products, paint and paint products*, between points in the U.S., under continuing contract(s) with Kamco Supply Corp., of Brooklyn, NY Kamco Supply Corp., of New England and Kamco Supply Corp., of Boston, MA.

MC 141326 (Sub-9), filed May 29, 1981. Applicant: C. C. SALTER, d.b.a. SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36207. Representative: Donald B. Sweeney, Jr., 512 Massey Bldg., Birmingham, AL 35203, (205) 254–3880. Transporting *metal products*, between points in Al, on the one hand, and, on the other, points in TX, AR, LA, MS, AL, GA, FL, SC, NC, TN, KY, MO, IA, CA, and MD.

MC 145246 (Sub-2), filed May 29, 1981. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main St., Madison, WI 53703, (608) 255–1388. Transporting *salt*, between points in Manistee County, MI and points in WI.

MC 147876 (Sub-6), filed May 28, 1981. Applicant: SHAY COMPANY, INC., P.O. Box 2081, Clarksville, IN 47130. Representative: K. Edward Wolcott, Suite 1200, Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303, (404) 522–2322. Transporting *metal products*, between points in Jefferson County, KY, on the one hand, and, on the other, points in AL, IN and MD.

MC 156196, filed May 27, 1981. Applicant: VIC BORING, d.b.a. VIC BORING TRUCKING SERVICE, R.R. #1, Box 471, New Palestine, IN 46163. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *commodities in bulk*, between Cincinnati, OH and Louisville, KY, on the one hand, and, on the other, those points in IN on and south of U.S. Hwy 36.

[FR Doc. 81–17543 Filed 6–11–81; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 99]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 8, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 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 2900 (Sub-447)X, filed May 19, 1981. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Applicant seeks to remove restrictions in its Sub-Nos. 296, 299, 346F, 370F, and 378, certificates to (1) remove all exceptions in its general commodities except Classes A and B explosives in each certificate; (2) allow service at all intermediate points between specified points in FL, GA, IL, IN, KY, MO, NC, OH, SC, and TX, in Sub-Nos. 299, 346F, and 378; and (3) remove restrictions in Sub-Nos. 296, 299, 346F, and 378 preventing transportation to and from certain geographic areas.

MC 111401 (Sub-619)X, filed May 4, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Alvin J. Meiklejohn, Jr., 1600 Lincoln Center, 16660 Lincoln Street, Denver, CO 80264. Applicant seeks to remove restrictions in its Sub-Nos. 303, 304, 314, 315, 322, 330, 341, 351, 356, 366, 375, 376, 378, 380, 389, 390, 394 and 409 certificates to (1) broaden the commodity descriptions to "commodities in bulk" from dimethyldichlorosilane and methyldichlorosilane (in bulk, in tank vehicles), in Sub-No. 303; liquified petroleum gases (in bulk, in tank vehicles) and liquid chemicals (in bulk, in tank vehicles), in Sub-No. 304; liquid chemicals or chemicals (in bulk, in tank vehicles), in Sub-Nos. 322, 351, 366, (part 3, 380 (parts 1 and 5), 389 and 390 (part A, K, 2, 4 and 5 and parts B, 1); liquid fertilizer, in Sub-No. 314; fertilizer materials, dry fertilizer, insecticides, fungicides and herbicides, in Sub-Nos. 330 (part 5), and 390 (part B, 2), liquid distiller solubles, in Sub-No. 409 (part 1); printing ink (in bulk), in Sub-No. 315; crude oil, (in bulk, in tank vehicles), in Sub-No. 341 (part 1); petroleum lubricating oil (in bulk, in tank vehicles), in Sub-No. 341 (part 2); synthetic plastic, in Sub-No. 390 (part A (3)); corn flour (in bulk, in tank vehicles), in Sub-No. 366 (part 1); petroleum and petroleum products (in bulk, in tank vehicles), in Sub-Nos. 366 (part 2), 375 and 409 (part 2); liquid animal feed ingredients, in Sub-No. 378, and glycols, alcohols, acetates, Ketones, and their compounds and derivatives (in bulk, in tank vehicles) in Sub-No. 380 (parts 2 and 3) to "commodities in bulk and chemicals and related products" from dry fertilizer and fertilizer materials and insecticides, in Sub-No. 330 (parts 1, 2 and 4); dry fertilizer and dry fertilizer materials, in Sub-No. 356; chemicals, laundry supplies and paint, in Sub-No. 376; nitrogen compounds, in Sub-No. 380 (part 4); and coal tar products, in Sub-No. 394, (2) replace one-way authority with radial authority, in all Subs, (3) broaden the territorial description by substituting county-wide and city-wide authority for city-wide authority and facilities: Long Reach, WV to Tyler County, WV in Sub-No. 303; facilities at Harvey, LA to Jefferson Parish, LA in Sub-No. 304; facilities at Pine Bluff, AR to Jefferson County, AR in Sub-No. 314; Tulsa, OK to Tulsa and Osage Counties, OK in Sub-No. 315; facilities at Plaquamine, LA to Iberville Parish, LA in Sub-No. 322; Military, KS to Cherokee County, KS and Catoosa, OK to Rogers County, OK in Sub-No. 330; Ponca City, OK to Kay County, OK in Sub-No. 341; Meadville, PA to Crawford County, PA and Woodstock, TN to Shelby County, TN in Sub-No. 351; facilities at Atchinson, KS to Atchinson County, KS and Mapleton, IL with Peoria County, IL, Wynnewood, OK to Garvin County, OK, and Geismor, LA to Ascension Parish, LA and Louisville, KY to Jefferson County, KY in Sub-No. 366; Chalmette and Meraux, LA to St. Bernard Parish, LA in Sub-No. 375; Muskogee and Kingfisher, OK to Muskogee and Kingfisher Counties, OK, Lucerne, CO to Weld County, CO, Scottsbluff, NE to Scotts Bluff County, NE, Leoti, KS to Wichita County, KS in Sub-No. 378; Texas City, TX to Galveston County, TX, North Seadrift, TX to Calhoun County, TX, Bishop, TX to Nueces County, TX, facilities at Taft, LA to St. Charles Parish, LA and facilities at Brownsville, TX to Cameron County, TX in Sub-No. 380; facilities at Sterlington, LA to Ouachitas Parish, LA in Sub-No. 389; Longview, TX to Gregg County, TX, Kingsport, TN to Sullivan County, TN, El Dorado, AR to Union County, AR, Mt. Pleasant, TX to Titus County, TX, Arkadelphia, AR to Clark County, AR, Magnolia, AR to Columbia County, AR, Bossier City, LA to Bossier Parish, LA, Morningsport and Vivian, LA to Caddo Parish, LA, Nachitoches, LA to Natchitoches Parish, LA in Sub-No. 390; Stroud, OK to Lincoln County, OK in Sub-No. 394; and, Atchinson, KS to Atchinson County, KS, Cotton Valley, LA to Webster Parish, LA, Caney, KS to Montogmery, County, KS, Indianapolis, IN to Marion County, IN, Albuquerque, Ambrosia Lake and White Sands, NM to Bernalillo, McKinley and Donna Ana Counties, NM in Sub-No. 409; and (4) remove the AK and HI exceptions, in Sub-Nos. 315, 322, 390 and 394; (5) remove the joinder or tacking restrictions in Sub-Nos. 304 and 380; (6) remove the restrictions prohibiting the transportation of specified commodities to named points, in Sub-Nos. 304, 330 (part 3), 380 and 390; (7) remove originating at and/or destined to restrictions, in Sub-Nos. 322, 376, 380, 389 and 394 and (8) remove restrictions requiring transportation of specifed commodities, in foreign commerce only, in Sub-No. 366.

MC 116519 (Sub-103)X, filed May 27, 1981. Applicant: FREDERICK TRANSPORT LIMITED, R.R. #6, Chatham, Ontario, Canada. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005. Applicant seeks to remove restriction in its Sub-No. 62F certificate which now authorizes the transportation of alloys, animal litter, calcium carbanate, clay, fertilizer and fertilizer ingredients, foundry supplies, nepheline cyanite, ores, sand and stone, in containers, between ports of entry on the U.S.-Canada boundary line, in Michigan and New York, on the one hand, and on the other, points in 37 states, by removing the limitation "in containers" from the commodity description.

MC 116806 (Sub-7)X, filed May 15, 1981. Applicant: HUTTON TRANSPORT, LIMITED, R. R. No. 1, Lakeside, Ontario, Canada, NOM 2G0. Representative: William B. Elmer, 624 Third Street, Traverse City, MI 49684. applicant seeks to remove restrictions from its Sub-Nos. 1, 2 and 6 certificates to (1) broaden the commodity descriptions in Sub-Nos. 1 and 2 from meat, meat products and meat byproducts to "food and related products" in Sub-No. 6 and part of Sub-No. 2 from cement, concrete, clay, brick and block and prestressed and precast concrete products to "clay, concrete, glass or stone products and building materials," (2) in Sub-No. 2 remove restriction to traffic originating at named points in Canada and (3) replace port of entry on International Boundary line origins at or near Buffalo, NY and Detroit, MI, with ports of entry on International Boundary line in NY and MI, in Sub-Nos. 1 & 2 and (4) change one way to radial authority between (a) ports of entry in NY and Buffalo, NY in Sub-No. 1 and (b) ports of entry in MI and Detroit, MI in Sub-No. 2.

MC 118959 (Sub-264)X, filed May 14, 1981. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603.The application seeks to remove restrictions in Sub-Nos. 4, 10, 12, 31, 33, 40, 48, 64, 71, 79, 90, 102, 131, 137, 138, 141, 142, 146, 148, 150, 160, 169, 170, 175, 176, 180, 183, 187, 188, 194, 200, 202, 203, 207, 208, 215, 216, 217, 224, 227, 229, 230, 236, 237, 241, 242, 244, 245, 250, 254 certificates and letter notice E–1 and Sub-No. 136 permit to (1) broaden the commodity descriptions in Sub-No. 4, from pottery to "clay, concrete, glass or stone products"; in Sub-No. 10 from Flower pots and saucers to "clay, concrete, glass, stone, and rubber and plastic products"; in Sub-No. 12, from steel joists to "iron and steel articles"; in Sub-No. 31, from rubber to "rubber and plastic products"; in Sub-No. 33, from carpet or rug cushioning, rubber and plastic coated materials to "textile mill products and rubber and plastic products"; in Sub-No. 64, from aluminum trays, iron and steel channels, iron and steel trays, nuts, bolts, washers, fittings and accessories to "metal products and iron and steel articles"; in Sub-No. 71, from plastic plastic, products and pipe to "plastic and rubber products and building and construction materials"; in Sub-No. 79, from salt and salt products and materials and supplies used in the agricultural water treatment, food processing, wholesale grocery and institutional supply industries to "chemicals and related products and such commodities as are used in the agricultural water treatment, food processing, wholesale grocery and institutional supply industries"; in Sub-No. 90, from aluminum trays, iron and steel channels, aluminum channels, iron and steel trays, iron and steel angles, aluminum angles, nuts, bolts, washer fittings and accessories to "metal products and iron and steel articles"; in Sub-No. 102, from iron and steel prison bars to "iron and steel articles"; in Sub-No. 131, from red clay pottery to "clay, concrete, glass or stone products"; in Sub-No. 136, from plastic containers and closures to "rubber and plastic products"; in Sub-No. 138, from glass bottles to "clay, concrete, glass or stone products"; in Sub-No. 141, from adhesives to "chemicals and related products"; in Sub-No. 142, from iron and steel wire, cable and spirals to "iron and steel articles"; in Sub-No. 146, from paper trays, corrugated post, clay and clay products to "pulp, paper and related products and clay, concrete, glass or stone products"; in Sub-No. 148, from steel and aluminum storage buildings and storage building parts, attachments and accessories to "metal products and prefabricated buildings"; in Sub-No. 150, from clay, clay products, paper trays and corrugated post to "clay, concrete, glass or stone products and pulp, paper and related products"; in Sub-No. 160 from plastic articles to "rubber and plastic products"; in Sub-No. 169, from lawn mower parts and accessories to "machinery"; in Sub-No. 175, from plastic, plastic articles, tin, tin articles, iron and steel articles, rubber, rubber articles and resins to "rubber and plastic products, iron and steel articles and chemicals and related products"; in Sub-No. 176, from salt to "chemicals and related products"; in Sub-No. 180, from plastic containers to "containers"; in Sub-No. 183, from paper, paper products, cellulose products and textile softeners to "pulp, paper and related products and chemicals and related products"; in Sub-No. 187, from glass containers to "containers"; in Sub-No. 188, from janitorial equipment, materials and supplies to "such commodities as are dealt in by manufacturers or distributors of janitorial equipment, materials and supplies"; in Sub-Nos. 194 and 215, from bakery goods to "food and related products"; in Sub-No. 200, from salt and salt products to "chemicals and related products"; in Sub-No. 203, from food and food products to "food and related products"; in Sub-No. 208, from canned and preserved foodstuffs to "food and related products"; in Sub-No. 216, from

aluminum castings to "metal products"; in Sub-No. 227, from foodstuffs to "food and related products"; in Sub-No. 229, from corn products, soybean products and dessert preparations to "food and related products"; in Sub-No. 237, from cleaning, scouring and washing compounds and textile softeners to "chemicals and related products"; in Sub-No. 241, from plastic articles to "rubber and plastic products"; in Sub-No. 242, from phosphated nonalcoholic beverages to "food and related products"; in Sub-No. 244, from plastic bags to "rubber and plastic products"; in Sub-No. 245, from paper bags, wrapping paper and plastic bags to "pulp, paper and related products and rubber and plastic products"; and in Sub-No. 254, from vinyl and vinyl products, chipboard and chipboard products, polyethylene and polyethylene products, labels, specialty die cutting and packaging supplies to "rubber and plastic products, building materials and pulp, paper and related products"; (2) in Sub-Nos. 31, 71 79, 137, 146, 148, 150, 160, 175, 176, 183, 188, 194, 200, 202, 203, 215, 227, 229, 237, 241, 244, 245 and 250, remove exceptions to commodities in bulk; (3) in Sub-No. 194, remove the restriction against the transportation of frozen bakery goods; (4) in Sub-Nos. 12 and 71, remove the restrictions against the transportation of articles which because of size or weight require the use of special equipment; (5) in Sub-Nos. 102, 160, 180, 183, 208, and 236, remove "originating at and/or destined to" restriction; (6) in Sub-No. 224 remove a restriction limiting service to traffic having a subsequent movement by rail; (7) in Sub-Nos. 79 and 141, remove mixed loads restrictions; (9) change city to county-wide authority in Sub-Nos. 4 and 10 from Jackson to Cape Girardeau County, MO; in Sub-No. 12 from Madison to Madison County, IL; in Sub-No. 3 from Columbus, MS to Lowndes County, MS; in Sub-No. 48 from Mayfield, KY to Graves County, KY; in Sub-No 71 from Fayetteville and Glenville, WV to Fayette and Gilmer Counties, WV; in Sub-No. 136 (permit) from Highlands, TX to Harris County, TX; in Sub-No. 169 from Beaufort to Beaufort County, TX; in Sub-No. 176 from Grand Saline, TX and Rittman, OH to Van Zandt County, TX and Wayne County, OH; in Sub-No. 187 from Gas City, IN and Paducah, KY to Grant County, IN and McCracken County, KY; in Sub-No. 188 from Cairo and Downers Grove, IL to Alexander and DuPage Counties, IL; in Sub-No. 200 from Avery Island, LA to Iberia Parish, La; in Sub-No 203 from Chester and Steeleville, IL and Perryville, MO to Randolph County, IL and Perry County, MO; in Sub-No. 216 from Sheboygan, WI to Sheyboygan County, WI; in Sub-No. 217 from East Prairie, MO to Mississippi County, MO; in Sub-No. 229 from Muscatine and Mitchellville, IA to Muscatine and Polk Counties, IA; in Sub-No. 236 from Marion and LaPorte, IN to Grant and LaPorte Counties, IN; in Sub-No. 241; from Nicholasville, KY to Jessamine County, KY; and, in Sub-No. 254 from Cape Girardeau and Scott City, MO to Cape Girardeau and Scott Counties, MO, (10) remove plantsite limitations in Sub-No. 40 and E letter notice E–1 and replace Alton, IL with Madison County, IL; in Sub-Nos. 64 and 90 and replace Highlands, IL with Madison County, IL in Sub-No. 141 and replace Chillicothe, OH with Ross County, OH; in Sub-No. 146 and replace Oran and Bloomfield, MO and Paris, TN with Scott and Stoddard Counties, MO and Henry County, TN; in Sub-No. 148 and replace Breese, IL with Clinton County, IL; in Sub-No. 150 and replace Mounds, IL with Pulaski County, IL; in Sub-No. 175 and replace Homerville and Valdosta, GA and Picayune, MS with Clinch and Lowndes Counties, GA and Pearl River County, MS; in Sub-No. 183 and replace Green Bay, WI with Brown County, WI; in Sub-No. 207 and replace Clinton, IA with Clinton County, IA; in Sub-No. 208 and replace Muscatine and Iowa City, IA with Muscatine and Johnson Counties, IA; in Sub-No. 224 and replace Herrin, IL and Cape Girardeau, MO with Williamson County, IL and Cape Girardeau County, MO; in Sub-No. 227 and replace Lexington, KY with Fayette County, KY; in Sub-No. 230 and replace Sterling and Rock Falls, IL with Whiteside County, IL; in Sub-No. 237 and replace Alexandria, LA, and Houston and Beaumont, TX with Rapides Parish, LA and Harris and Jefferson Counties, TX; in Sub-No 242 and replace Houston, TX with Harris County, TX; in Sub-No. 244 and replace Yulee, FL with Nassau County, FL; in Sub-No. 254 and replace Elizabeth, NJ, Yulee, FL and Plainfield, IL with Union County, NJ, Nassau County, FL and Will County, IL; and, in Sub-No. 250 and replace Alexandria, LA with Rapides Parish, LA, and (11) change one-way to radial authority between various combinations of points throughout the US in all Subs and E letter notice E–1 except Sub-Nos. 183, 188, 203, 207, 215, 227, 241, 245, and 254.

MC 124263 (Sub-7)X, filed May 18, 1981. Applicant: SUN MOTOR LINE, INC., P.O. Box 32546, Oklahoma City, OK 73123. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200–A, Park Ridge, IL 60068. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1, 4, and 5 certificates to (1) broaden commodity

descriptions to "food and related products" from frozen fruits, frozen berries and frozen vegetables in the lead, from sweet cream, butter and plain and sweetened condensed milk and bananas in Sub-No. 1 and from frozen foodstuffs, in Sub-No. 4 and to "metal products, machinery and furniture and fixtures" from fireplaces, fireplace parts and accessories, and materials, equipment and supplies used in the manufacture and distribution of fireplaces in Sub-No. 5; (2) remove a facilities limitation and replace Centerville and Mt. Pleasant, IA with Appanoose and Henry Counties, IA; (3) remove the restriction to "in containers" in Sub-No. 1; (4) remove a mechanical refrigeration vehicle restriction in Sub-No. 4; (5) remove the "originating at and destined to "restriction in Sub-No. 5; (6) change city to county-wide authority from Watsonville, CA to Santa Cruz County, CA, Salinas, CA to Monterey County, CA, San Martin, San Jose and Santa Clara, CA to Santa Clara County, CA, Modesto and Patterson, CA to Stanislaus County, CA, Fresno and Sanger, CA to Fresno County, CA and Wichita, KS to Sedgwick County, KS, in the lead, and (7) change one–way authorities to radial authorities between (a) above named CA Counties, and, 1 KS county, and Oklahoma City, OK in the lead, (b) Normon, OK and points within 1 mile of Normon, OK, and, points in 4 States: New Orleans, LA, and, Oklahoma City, OK in Sub-No. 1; (c) 4 States, and, 16 States in Sub-No. 4, and (d) 2 IA counties, and, 6 States in Sub-No. 5.

MC 124263 (Sub-8)X, filed May 21, 1981. Applicant: SUN MOTOR LINE, INC., P.O. Box 32546, Oklahoma City, OK 73123. Representative: Jack H. Blanshan, Suite 200–A, 205 West Touhy Avenue, Park Ridge, IL 60068. Applicant seeks to remove restrictions in its No. MC–66836 permit to (A) broaden the commodity descriptions to "petroleum, natural gas and their products" from lubricating oils and greases; to "containers" from empty containers for lubricating oils and greases; to "metal products, machinery, chemicals and related products, and printed matter" from grease guns and pumps, insecticides, and advertising signs; and delete the restrictive phrase "in containers" wherever it appears; and (B) change its territorial authority to between points in the U.S. under contract(s), in its open-ended permit.

MC 126111 (Sub-11)X, filed May 18, 1981. Applicant: SCHAETZEL TRUCKING COMPANY, INC., P.O. Box 1579, Fond du Lac, WI 54935. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Applicant seeks to remove restrictions in its Sub-Nos. 9F and 10F permits to (1) broaden the commodity descriptions from sweetened condensed milk to "food and related products", in both Subs and (2) broaden the territorial descriptions to "between points in the U.S." under continuing contracts with the named shippers in both Subs.

MC 139379 (Sub-11)X, filed April 17, 1981, previously noticed in the **Federal Register** of May 8, 1981, republished as corrected this issue. Applicant: LES MATHRE TRUCKING, INC., 417 8th Street, Story City, IA 50248. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Applicant seeks to remove restrictions in its Sub-Nos. 2 and 5F certificates to (1) eliminate the except commodities in bulk restriction, in both certificates; (2) replace the facilities and city-wide authority with county-wide authority: (a) Saline County, NE, for Crete, NE, Crawford, Carroll and Hardin Counties, IA, for Denison, Carroll, and Iowa Falls, IA, in Sub-No. 2, and (b) Lancaster and Saline Counties, NE, for Lincoln and Crete, NE, and Crawford, Carroll, Hardin, Polk, Webster Counties, IA, for Denison, Carroll, Iowa Falls, Des Moines and Fort Dodge, IA, in Sub-No. 5F; (3) eliminate the restriction limiting service to the transportation of traffic originating at and destined to named points, in Sub-No. 2; and (4) authorize radial authority to replace existing one-way service between named counties in NE and IA and points in various combinations of States throughout the U.S., in both certificates. The purpose of this republication is to reinstate Omaha, NE, in lieu of Douglas County, NE, and Sioux City, IA, in lieu of Woodbury, IA. All other cities were to be converted except Omaha and Sioux City.

MC 145608 (Sub-5)X, filed May 28, 1981. Applicant: HENRY JOHNSON, INC., 4902 S. 61st Street, Omaha, NE 68117. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200–A, Park Ridge, IL 60068. Applicant seeks to remove restrictions in its Sub-No. 43 certificate to (1) broaden the commodity description to "food and related products" from "confectionery and related advertising and display items"; (2) remove facilities restrictions; (3) remove the restriction "originating at the named origins and destined to named facilities at Reno for storage and transit"; (4) remove the restriction to transportation of shipments having a prior movement from named facilites; (5) enlarge Sullivan, IL to Moultrie County, IL and Reno, NV to Washoe County, NV; and (6) change one-way authority to radial authority between points in the above counties.

MC 145894 (Sub-4)X, filed June 3, 1981. Applicant: EQUIPMENT SUPPLIES, INC., 7736 W. 62nd Place, Summit, IL 60501. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. Applicant seeks to remove restrictions in its Sub-No. 1F certificate to (1) remove all exceptions from its general commodities authority except classes A and B explosives; and (2) remove the restrictions requiring transportation in containers or trailers having an immediately prior or subsequent movement by water or rail.

MC 145955 (Sub-23)X, filed May 4, 1981, previously noticed in the **Federal Register** of May 19, 1981, republished as corrected this issue. Applicant: CENTRAL TRUCK SERVICE, INC., P.O. Box 7154, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. Applicant seeks to remove restrictions in its Sub-Nos. 2F, 8F, 10F, 12F, 13F, 14F, 15F, 16F, and 17F certificates to (1) broaden the commodity descriptions to (a) "machinery and related products" from electrical appliances and accessories, in Sub-No. 2F; (b) "food and related products" from meats, meat products, meat by products, and articles distributed by meat packing houses, in Sub-Nos. 8F and 13F, foodstuffs in Sub-No. 14F, and pet food and pet supplies, in Sub-No. 16F; (c) "chemicals and related products, petroleum, natural gas and their products, rubber and plastic products, and clay, concrete, glass or stone products" from cleaning and polishing compounds, textile softener, lubricants, deodorants, disinfectants, hyochlorite solutions, paints, plastic bags and filters, in Sub-No. 10F; (d) "such commodities as are dealt in by manufacturers and distributors of containers and paper and paper products" from containers and paper and paper products, in Sub-No. 12F; (e) "chemicals and related products" from adhesives, in Sub-No. 15F; and (f) "such commodities as are dealt in by manufacturers or distributors of paper products" from paper products, in Sub-No. 17F; (2) eliminate "except hides and commodities in bulk" restrictions, in Sub-No. 8F; (3) replace Franklin, IL, and Topeka and Wichita, KS with authority to serve Chicago, IL, and Shawnee and Sedgwick Counties, KS, in Sub. No. 2F; and (4) change its one-way authorities to radial authorities between Cook County, IL and named points in IA, NE, KS, and MO, in Sub-No. 2F, and between

Chicago, IL, and Milwaukee, WI, and, points in the U.S., in Sub-No. 14F.

MC 146519 (Sub-9)X, filed May 26, 1981. Applicant: CALIANA MARKETING, INC., 2130 Prairieton Road, Terre Haute, IN 47802. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Applicant seeks to remove restrictions in its Sub-Nos. 1F, 3F, 4F and 8F permits to (1) broaden the commodity description from scrap metal to "metal products" in Sub-No. 1F; from baking powder (except in bulk) to "Food and related products" in Sub-No. 3F; and from dry corn products (except in bulk) to "farm products" in Sub-Nos. 4F and 8F; and (2) broaden the territorial descriptions to authorize between points in the U.S., under continuing contracts(s) with named shippers.

[FR. Doc. 81-17544 Filed 6-11-81; 8:45 am]

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[Volume No. OPY-2-096]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: June 4, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority is issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

FF 552F, filed May 26, 1981. Applicant: CAL-WEST CONSOLIDATORS, INC., 17023 South Central, Carson, CA 90746. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945-2745. As a freight forwarder, in connection with the transportation of *such commodities* as are dealt in or used by manufacturers, distributors, or retailers of floor coverings, drapery materials, and wall paper, (1) between points in CA, on the one hand, and, on the other, points in AL, AZ, CO, GA, NV, NC, SC, and UT, and (2) between points in AZ and NV, on the one hand, and, on the other, points in AL, GA, NC, and SC.

MC 13313 (Sub-3), filed May 27, 1981. Applicant: CUMMINGS TRANSFER CO., 740 29th Avenue W., Albany, OR 97321. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Avenue, Portland, OR 97210, (503) 226-3755. Transporting *household goods*, between points in OR, WA, ID and CA.

MC 25823 (Sub-12), filed May 28, 1981. Applicant: WERCH TRUCKING COMPANY, INC., Route #2, Box 113, Berlin, WI 53923. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Sperry-Vickers, of Omaha, NE.

MC 52793 (Sub-75F), filed May 27, 1981. Applicant: BEKINS VAN LINES, INC., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), (312) 547-2184. Transporting *household goods*, between points in the U.S., under continuing contract(s) with ROLM Corporation, of Santa Clara, CA.

MC 77972 (Sub-52), filed May 29, 1981. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, MS 38652. Representative: James R. Holt, P.O. Box 523, Collierville, TN 38017, (901) 853-7208. Transporting *machinery*, between points in Lee County, MS, Pulaski County, KY, and Henry, Madison, and Shelby Counties, TN, on the one hand, and, on the other, points in the U.S. Note: Applicant intends to tack the authority sought with its existing regular-route authority in Docket No. MC 77972 and Sub Nos. 4, 12, 13, 15, 17, 22, 28, 29, and 30, thereto.

MC 105733 (Sub-85), filed May 21, 1981. Applicant: RITTER TRANSPORTATION, INC., P.O. Box 1064-A, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, NW., Washington, D.C. 20005, 202-296-3555. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Monsanto Company, of St.Louis, MO.

MC 107012 (Sub-721), filed May 27, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *ployurethane foam products*, between points in NC and FL, on the one hand, and, on the other points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY, AND DC.

MC 124212 (Sub-113), filed May 21, 1981. Applicant: MITCHELL

TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting (1) *commodities, in bulk,* and (2) *building materials,* between points in the U.S., under contract(s) with The Bessemer Cement Company, of Bessemer, PA.

MC 128073 (Sub-9), filed May 27, 1981. Applicant: BANANA SHIPPING SERVICE, INC., P.O. box 4374, Montgomery, AL 36101. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, 312–696–2235. Transporting *food and related products,* between points in Harrison County, MS, on the one hand, and, on the other, points in AR and TN.

MC 129712 (Sub-46), filed May 27, 1981. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, GA 30326, (404) 237–6472. Transporting *lumber and wood products and building materials,* between points in the U.S., under continuing contract(s) with Empire Wholesale Lumber Company, of Akron, OH.

MC 134783 (Sub-77), filed May 21, 1981. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 655 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203, 303–839–5856. Transporting *food and related products,* between points in Malheur County, OR, Cassia County, ID, Stark County, OH, Montclam County, MI, Portage County, WI, Hartford County, CT, and Chester County, PA, on the one hand, and, on the other, points in the U.S.

MC 135653 (Sub-12), filed May 27, 1981. Applicant: SPECIAL SERVICE TRANSPORTATION, INC., 1100 W. Smith, Medina, OH 44256. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *such commodities* as are dealt in or used by retail, wholesale, and chain grocery stores, and food business houses, between Toledo, OH, on the one hand and, on the other, points in PA and NY.

MC 142122 (Sub-4F), filed May 20, 1981. Applicant: PASCUZZO AND HONEYMAN TRUCKING, INC., 5127 Maywood Ave., Maywood, CA 90270. Representative: Peter Sowa (same address as applicant), (213) 583–4855. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Vons Grocery Company, of ElMonte, CA.

MC 142432 (Sub-3), filed May 27, 1981. Applicant: N. R. JACKSON, RD 1, Box 258–A, Oxford, PA 19363. Representative: Robert R. Herr, P.O. Box 8, Quarryville, PA 17566, (717) 786–2181. Transporting *food and related products,* between points in CA, on the one hand, and, on the other, points in VA, MD, WV, DE, PA, NJ, NY, OH, NC, SC, and DC.

MC 144083 (Sub-15), filed May 22, 1981. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Valentine Truck Brokers, Inc., of Phoenix AZ and (b) Charles McAlpin dba Charles McAlpin Brokerage Company, of Decatur, AL.

MC 145102 (Sub-76), filed May 27, 1981. Applicant: FREYMILLER TRUCKING, INC., 1400 South Union Avenue, Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *food and related products,* between points in IL, IN, IA, MN, NE, and WI, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

MC 147553 (Sub-14), filed May 29, 1981. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting (1) *such commodities* as are dealt in by hardware business houses, (2) *chemicals and related products,* (3) *pulp, paper and related products,* and (4) *building materials,* between points in AZ, CA, ID, MT, NV, NM, UT, OR, and WA, on the one hand, and, on the other, points in ID, OR, and WA.

MC 147712 (Sub-24), filed May 27, 1981. Applicant: MID-WESTERN TRANSPORT, INC., 14625 Carmenita Road, Norwalk, CA 90650. Representative: Joseph Fazio (same as above) (213) 921–7474. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Sheller Globe Corporation, of Toledo, OH.

MC 148083 (Sub-5), filed May 22, 1981. Applicant: SELLARS TRANSPORT SERVICE, 1620 Parnell Dr., Eugene, OR 97404. Representative: Robert W. Sellars (same address as applicant), (503) 485–6138. Transporting *clay, concrete, glass or stone products,* between points in Douglas County, OR, on the one hand, and, on the other, points in CA, ID, NV, WA, and UT.

MC 149133 (Sub-4), filed May 27, 1981. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same address as applicant), 704–588–2109. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Western Auto Supply Company, of Kansas City, MO.

MC 149563 (Sub-9), filed May 27, 1981. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–2881. Transporting *ores and minerals, and clay, concrete, glass or stone products* between points in Union and Grainger Counties, TN, on the one hand, and, on the other, points in KY, TN, VA, NC, SC, GA, AL and MS.

MC 149563 (Sub-10), filed May 28, 1981. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251–2881. Transporting *clay, concrete, glass or stone products* between points in Dallas and Rockwall Counties,TX, on the one hand, and, on the other, points in the U.S.

MC 150042 (Sub-2), filed May 27, 1981. Applicant: JOHN W. CAIN, d.b.a. CAIN TRUCK LINE, P.O. Box 538, Sunland Park, NM 88063. Representative: John W. Cain (same address as applicant), (915) 772–1809. transporting *food and related products,* between points in the U.S., under continuing contract(s) with (a) SYSCO—H & R Food Service Company, of El Paso, TX, and (b) SYSCO—Southwest, of Albuquerque, NM.

MC 150302 (Sub-1), filed May 22, 1981. Applicant: UNITED MERCHANTS TRUCKING, INC., Route 7, Box 8–C, Statesville, NC 28677, (704) 873–5221. Representative: Don Del Vitto (same address as applicant). Transporting *general commodities* (except classes A & B explosives), between points in the U.S., under continuing contract(s) with Charlotte Freight Association, Inc., of Charlotte, NC.

MC 150922 (Sub-1), filed May 27, 1981. Applicant: K & P TRUCKING CO., Route 2, Willard, OH 44890. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *food*

and related products between the facilities used by Campbell Soup Company, its divisions, and its subsidiaries, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 151993 (Sub-1), filed May 24, 1981. Applicant: FRANK SMITH, d.b.a. FRANK SMITH TRUCKING, Route 1, Box 3, Marble Falls, TX. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767, (512) 478–9808. Transporting *General commodities* (except Classes A and B explosives), between points in the U.S., under a continuing contract(s) with Tom Loftus Imports, Incorporated, of Marble Falls, TX.

MC 153723 (Sub-5), filed May 27, 1981. Applicant: A & M ENTERPRISES, INC., P.O. Box 884, Springdale, AR 72764. Representative: Don Garrison (same address as applicant), (501) 521–8121. Transporting: *central heating units, central air conditioning units, furnaces, air coolers, water evaporators, condensing units, compressors, electric motors,* between Ft. Smith, AR, on the one hand, and, on the other, points in the U.S.

MC 154343F, filed May 22, 1981. Applicant: HERITAGE TRAILS, INC., 16020 Forest, Oak Forest, IL 60452. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *passengers and their baggage,* in special or charter operations, beginning and ending at points in IL, IN, IA, KS, KY, MO, MI, MN, OH, and WI, and extending to points in the U.S.

MC 154743, filed May 17, 1981. Applicant: AAA TRANSPORT, INC., 152 Heyburn West, Twin Falls, ID 83301. Representative: Louis Garbrecht, P.O. Box 1794, Twin Falls, ID 83301 (208) 733–9410. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Southern Idaho Distributing, of Twin Falls, ID.

MC 155003, filed May 29, 1981. Applicant: FREIGHT MASTERS, INC., P.O. Box 6855, Jackson, MS 39212. Representative: Charles L. Moseley (same address as applicant), (601) 944–0021. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of covered copper wire and fluorescent lamp ballast, between Mendenhall and Gallman, MS, Blytheville, AR, Bridgeport, CT, and Paterson, NJ, on the one hand, and, on the other, points in AR, CA, CT, FL, GA, MS, NJ, NC, TX, and WA.

MC 155003 (Sub-2), filed May 29, 1981. Applicant: FREIGHT MASTERS, INC., P.O. Box 6855, Jackson, MS 39212. Representative: Charles L. Moseley (same address as applicant), (601) 944–0021. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cookware and small electrical appliances, between Jackson, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, OK, TN, and TX.

MC 155362 (Sub-1), filed May 27, 1981. Applicant: HOOSIER TRANSPORTATION SYSTEM, INC., 501 Sam Ralston Rd., Lebanon, IN 46052. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202, (303) 892–6700. Transporting *such commodities* as are dealt in or used by manufacturers, converters and distributors of pulp, paper and related products, between the facilities used by Westvaco Corporation, in the U.S., on the one hand, and, on the other, points in the U.S.

MC 155672F, filed May 20, 1981. Applicant: WISCONSIN AND SOUTHERN RAILROAD COMPANY, 501 East Lake St., Horicon, WI 53032. Representative: John P. Fonte, 1333 New Hampshire Ave., NW., Suite 400, Washington, DC 20036, (202) 887–4690. Transporting general commodities (except classes A and B explosives), between points in Dodge, Fond du Lac, Green Lake, Columbia, Milwaukee, Washington, Waukesha, and Winnebago Counties, WI.

MC 155892F, filed May 27, 1981. Applicant: HAROLD MEDIKALSKI, d.b.a. MECIKALSKI TRUCKING, 1168 Stead Dr., Menasha, WI 54952. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *machinery,* between points in the U.S., under continuing contract(s) with Miller Electric Mfg. Company, of Appleton, WI.

MC 156072F, filed May 20, 1981. Applicant: CHARLES WARREN, d.b.a. WARREN'S AUTO SERVICE, P.O. Box 83, Saratoga, IN 47382. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *pulp, paper and related products,* between points in the U.S., under continuing contract(s) with Four M Company, of Portland, IN.

MC 156092F, filed May 22, 1981. Applicant: WILLIAM D. CIMPI, 7156 Eastman Road, Syracuse, NY 13212. Representative: Martin R. Martino, 333 South Glebe Rd., Arlington, VA 22204, (703) 979–1627. Transporting *machinery* between points in NY, on the one hand, and, on the other, points in PA, MD, FL, VA, NC, SC, GA and TX.

MC 156162, filed May 27, 1981. Applicant: WEBSTER DISTRIBUTING COMPANY, 2090 Bartow Road, U.S. Highway 98 South, Lakeland, FL 33802. Representative: M. Craig Massey, 215 East Lime Street, P.O. Drawer 1109, Lakeland, FL 33802, (813) 682–1178. Transporting *such commodities* as are dealt in or used by manufacturers and distributors in the food processing industry, between points in FL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 156172, filed May 27, 1981. Applicant: W. M. SPIEGEL SONS, INC., d.b.a. REFUSE CONTAINER TRANSPORTATION, 461 E. Clinton Street, Elmira, NY 14901. Representative: Donald C. Carmien, 15 Chenango Street, P.O. Box 1922, Binghamton, NY 13901. Transporting *hazardous waste materials,* between points in Chemung, Steuben, Yates, Schyler, Tompkins, and Tioga Counties, NY, and Tioga County, PA, on the one hand, and, on the other, points in the U.S. Condition: To the extent that this certificate authorizes the transportation of hazardous waste materials it shall be limited in term to a period expiring 5 years from its date of issuance.

MC 156183F, filed May 21, 1981. Applicant: QUICK TRANSPORTATION, INC., 1320 Elm Hill Pike, Nashville, TN 37210. Representative: Earl Douglas Ison, Jr. (same address as applicant), (615) 256–3166. Transporting *general commodities* (except classes A and B explosives), between points in GA, IL, IN, KY, MI, OH, and TN.

[FR Doc. 81-17546 Filed 6-11-81; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket 29629]

Petition of Consolidated Rail Corporation for Exemption of the Proposed Abandonment of the Malone Secondary Track

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment of a 10.3 mile segment of the Malone Branch of Consolidated Rail Corporation (Conrail) from the requirements of prior Commission approval under 49 U.S.C.10903.

DATES: Exemption effective July 13, 1981. Petitions for reconsideration of this action must be filed on or before July 2, 1981.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., Washington, DC 20423;
and
(2) Petitioner's representative: Charles E. Mecham, 1138 Six Penn Center Plaza, Philadelphia, PA 19104.

Pleadings should refer to Finance Docket No. 29629.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson (202) 275–7245.

SUPPLEMENTARY INFORMATION:

The Proposed Transaction

Conrail has filed a petition to exempt the abandonment of a 10.3 mile segment of its Malone Branch in Franklin County, NY, from the requirements of 49 U.S.C. 10903.

Conrail currently conducts no rail operations over the track. There are no stations, public delivery track, or private rail sidings located on the segment. No other freight rail carrier operates lines within several miles of the involved track. Conrail claims that abandonment will not affect any shippers or receivers of freight and will have no measurable effect opon its revenues and expenses. Moreover, Conrail predicts that there will be no impact upon rail employees or the environment and energy consumption. Other carriers and the public generally should not be affected.

Following abandonment, Conrail plans to sell the right of way and salvage the rails, ties, and other hardware.

The Statute

Rail abandonments require the approval and authorization of the Commission under 49 U.S.C. 10903. To obtain Commission approval, an application must be filed in compliance with *Abandonment of Railroad Lines and Discontinuance of Service*, 49 CFR 1121 (1978) (abandonment regulations). Conrail requests an exemption from 49 U.S.C. 10903 so that it will not have to file a formal application under the abandonment regulations.

Under 49 U.S.C. 10505, as modified by section 213 of the Staggers Rail Act of 1980 (Pub. L. 96–488, 94 Stat. 1895, October 4, 1980) (Staggers Act), the Commission is authorized to exempt a transaction when it finds that (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. 10101a; and (2) either the transaction is of limited scope, or regulation is not necessary to protect shippers from the abuse of market power.

Discussion and Conclusions

Our detailed scrutiny of this abandonment is not necessary to carry out the goals of the rail transportation policy of section 10101a because the abandonment does not affect shippers, employees or competing carriers.

The proposed abandonment is very limited in scope. It will effect only a relatively short track segment which is currently not used in any rail operations. Service to shippers will continue to be conducted in the same manner as in the past.

Since the proposed transaction is of limited scope, it is not necessary to consider whether our regulation is needed to protect shippers from the abuse of market power.

Public Use Condition and Offers of Financial Assistance. In abandonment applications filed pursuant to 49 U.S.C. 10903, the Commission is required to consider two matters that have not been specifically considered in this exemption proceeding. First, 49 U.S.C. 10906 requires us to determine if the property to be abandoned is suitable for other public uses. If the property is suitable, we impose certain conditions to allow interested persons an opportunity to obtain the property. Second, 49 U.S.C. 10905, as modified by section 402 of the Staggers Act, allows interested persons to make offers of financial assistance to assure the continuation of operations over the line. Under the procedure provided by this section, financial offers may lead to continued subsidized operation of the line or sale of the line for continued operations by others.

Since the provisions of sections 10905 and 10906 apply only to applications under section 10903, we are not required to allow offers of financial assistance or impose any public use conditions when an exemption is given, because no application need be filed. We note, however, that these matters may be raised in petitions for reopening of this proceeding.

Labor Protection. In granting an exemption under section 10505, we may not relieve a carrier of its obligation to protect the interests of employees as required by 49 U.S.C. Subtitle IV. (See 49 U.S.C. 10505(g)(2).) Therefore, as a condition to this exemption, we will impose the same level of labor protection as is usually required in abandonment transactions. We have determined that the employee protective conditions developed in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979), satisfy the statutory requirements for protection of employees involved in an abandonment transaction.

Energy and Environmental Considerations. Our initial review of the proposal indicates that the abandonment will not significantly affect energy consumption or the quality of the human environment. However, in line with our recent decision in F.D. No. 29352, *Central of Georgia Railroad Company—Petition for Exemption from the Filing of an Abandonment Petition, 49 U.S.C. 10903–10906*, (not printed) decided December 9, 1980, we shall require Conrail to notify the following New York agencies of this proceeding and their opportunity to file a petition to reopen this proceeding on environmental grounds:

Mr. Frederick Rath, Deputy Commissioner for Historic Preservation—Board of Historic Preservation—Parks and Recreation, South Swan Street Building, Albany, NY 12223;
Jane Magee, CEQRA Coordinator, N.Y. State Department of Environmental Conservation, 50 Wolf Road, Albany, NY
Iven Vamos, Deputy Commissioner, For Planning and Development, N.Y. State Parks and Recreation, Empire State Plaza, Albany, NY 12238;
John Lussi, Director, N.Y. State Department of Transportation—Building 7A, Room 305, State Office Campus, Albany, NY 12232;
Larry Brown, N.Y. State Dept. of Environmental Conservation, Significant Habitat Unit, Delmar, NY 12054;
Robert Hansen, Coastal Management Unit, Department of State, 162 Washington Street, Albany, NY 12232;
Darwin Field, Director, Planning and Federal Program, 99 Washington Avenue, Department of State, Albany, NY 12231;
Peter Nye, Wildlife Resources Center, N.Y. State Department of Environmental Conservation, Delmar, NY 12054;
Louis Rossi, Director, Department of Transportation, Rail Division, Building No. 5, State Campus, Albany, NY 12232;
Ms. Elizabeth Wald, Land Use Specialist, New York State Dept. of Environmental Conservation, Bureau of Forest Resource Mgt., 50 Wolf Road, Room 414, Albany NY 12233.

Conrail must notify these agencies within 5 days of the publication of this decision in the **Federal Register**. Copies of correspondence and /or memoranda of communications with these agencies

should be submitted as evidence of compliance with this condition.

This exemption will become effective July 13, 1981. And party may file a petition to reopen this proceeding for reconsideration in accordance with 49 CFR 1100.98(d). This petition must be filed no later than 20 days following the date of publication. The filing of a petition will not automatically stay the effect of this action; we may, on our own motion or on petition, stay the effective date. A petition to stay must be filed no later than 10 days following the date of publication.

We find

(1) The application of the requirements of 49 U.S.C. 10903 to the abandonment by Conrail of the described 10.3-mile segment of its line in Franklin County, NY, is not necessary to carry out the transportation policy of 49 U.S.C. 10101a.

(2) This transaction is of limited scope.

(3) This decision will not relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with 49 U.S.C. 11707.

(4) In light of the condition imposed in the first ordering paragraph below, this decision will not significantly affect energy consumption or the quality of the human environment.

It is ordered

(1) We exempt from the requirements of 49 U.S.C. 10903 the abandonment by Conrail of the 10.3 mile line described in its petition subject to the conditions for the protection of employees embodied in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979), and subject to the further condition that, within 5 days of publication in the **Federal Register**, it notifies the state agencies named in the body of this decision. Copies of correspondence and/or memoranda of communications with these agencies should be submitted for the record as evidence of compliance with this condition.

(2) Notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, **Federal Register**, for publication.

(3) This exemption will continue in effect for one year from the effective date of this decision. The abandonment of the line segment must occur during that time in order to use this exemption.

(4) This decision shall be effective July 13, 1981.

(5) Petitions to stay the effective date of this decision must be filed no later 10 days after the date of publication in the **Federal Register**.

(6) Petitions to reopen this proceeding for reconsideration of this decision must be filed no later than 20 days after the date of publication in the **Federal Register**.

Decided: June 8, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17547 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

[F.D. No. 29254F]

Somerset Railroad Corp.; Construction and Operation of a Line of Railroad in Niagara County, N.Y.

AGENCY: Interstate Commerce Commission (ICC), Office of Policy Analysis, Energy and Environment Branch.

ACTION: Notice of intent to prepare a supplement to the Environmental Impact Statement (EIS) on Somerset Railroad Corporation's application to construct and operate a line of railroad in Niagara County, New York.

SUMMARY: The Somerset Railroad Corporation (Somerset Railroad) has announced its intention to amend a previously filed application for the purpose of obtaining ICC certification to construct and operate railroad facilities to supply coal and other materials to an electric generating plant currently under construction along Lake Ontario at Somerset, New York, by the New York State Electric & Gas Corporation (NYSEG). This notice describes the analytical framework within which the amended application will be considered under the provisions of the National Environmental Policy Act of 1969 (NEPA). It is anticipated that the supplement will be presented in draft and, following comments, final form. Public comment on this notice is invited.

COMMENTS AND DATES: Written comments addressing the contents of this notice should be submitted to Interstate Commerce Commission, Energy and Environment Branch, Room 5377, 12th & Constitution Ave., N.W., Washington, DC 20423, and should be filed on or before July 13, 1981.

FOR FURTHER INFORMATION CONTACT: Carl Bausch (telephone: 202-275-7916).

SUPPLEMENTARY INFORMATION: Somerset Railroad's original application, filed February 12, 1980, contemplated construction and operation of a line of railroad from a station on the Falls Branch Line of Consolidated Rail Corporation located in Gasport, NY to the electric generating plant site (Gasport Spur). The NEPA process undertaken for that application resulted in promulgation of a draft and final EIS, issued September 5, 1980 and January 16, 1981, respectively, which considered potential impacts associated with the Gasport Spur as well as alternative routes, including a line known as Hojack-West. The application to construct the Gasport Spur was denied in a decision issued March 6, 1981, but without prejudice to Somerset Railroad's amending its application to seek authority over the Hojack-West line of railroad.

Somerset Railroad now intends to seek certification of the Hojack-West line, with a new connection to the Falls Road Branch Line which would run in a generally northerly direction from the Conrail switch yards west of Niagara Junction along a transmission line corridor owned by the New York State Power Authority and Niagara Mohawk Power Corporation, and then along the north side of the Niagara University campus to the State Power Authority Forebay, and then along the Hojack-West right-of-way. The supplement will examine this alternative and other feasible alternatives, if any, to avoid Niagara University, the Forebay, and the Niagara escarpment area in the town of Lewistown. The supplement will employ data previously developed and new data, as appropriate, in making this examination. A third party consultant, Tera Corporation, will assist the Energy and Environment Branch in preparing the supplement.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17545 Filed 6-11-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 7, 1981, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of AM International, Inc., 1900 Avenue of the Stars, Los Angeles, Calif. 90067 and

Bartizan Corp., 24 Ashburton Avenue, Yonkers, N.Y. 10701. The complaint alleges unfair methods of competition and unfair acts in the importation of certain card data imprinters into the United States, or in their sale, by reason of alleged direct or induced infringement of (1) claim 7 of U.S. Letters Patent 3,272,120 and (2) claim 12 of U.S. Letters Patent 3,340,800. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation; during the investigation, to issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond; and, after a full investigation, to issue an order excluding said articles from entry into the United States for the life of each patent in issue.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on June 4, 1981, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is reason to believe that there is a violation or whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain card data imprinters and components thereof into the United States, or in their sale, by reason of alleged direct or induced infringement of (1) claim 7 of U.S. Letters Patent 3,272,120 and (2) claim 12 of U.S. Letters Patent 3,340,800, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

AM International, Inc., 1900 Avenue of the Stars, Los Angeles, Calif. 90067
Bartizan Corporation, 24 Ashburton Avenue, Yonkers, N.Y. 10701.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

National Business Systems, Inc., 3206 Orlando Drive, Mississauga, Ontario L4V 1R5, Canada
National Business Systems, Inc., 525 Executive Boulevard, Elmsford, N.Y. 10523.

(c) Ralph Elsas-Patrick, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall be the Commission Investigative Attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

The phrase "and components thereof" has been added to paragraph (1) above on the basis of informal investigatory activities by the Commission which revealed that said card data imprinters can be imported in component parts as well as entirely assembled units.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(b) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary U.S. International Trade Commission, 701 E Street NW., Washington D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Ralph Elsas-Patrick, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0440.

Issued: June 8, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-17478 Filed 6-11-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Spectra-Physics, Inc. and Laserplane Corp.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Sections 16 (b)–(h), that a proposed consent judgment and a Competitive Impact Statement have been filed with the United States District Court for the Northern District of California in *United States v. Spectra-Physics, Inc. and Laserplane Corporation*, Civil No. C–78–1879 TEH.

The complaint in this case alleged that the December 1976 acquisition of Laserplane Corporation by Spectra-Physics, Inc. substantially lessened competition in the development, manufacture, and sale of laser-based machine control products and systems that are used on earth-moving machines.

The proposed judgment requires the defendants to license on a nonexclusive and royalty-free basis defendants' patents and other written machine control laser technical information which defendants owned as of January 1, 1980.

Public comment is invited within the statutory 60-day comment period. Such comments and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Field Office, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Joseph H. Widmar,

Director of Operations.

United States District Court for the Northern District of California

United States of America Plaintiff, v. Spectra-Physics, Inc. and Laserplane Corporation, Defendants. Civil No. C 78–1879 TEH.

Filed: June 2, 1981.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties hereto consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the

motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16], and without further notice to any party or any other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

For the Plaintiff United States of America: William F. Baxter, *Assistant Attorney General;* James E. Figenshaw, *Attorney, Department of Justice;* Anthony E. Desmond, *Attorney, Department of Justice.*

For the Defendants Spectra-Physics, Inc. and Laserplane Corporation: Heller, Ehrman, White & McAuliffe, 44 Montgomery Street, San Francisco, California; Arnold & Porter, 1200 New Hampshire Avenue, NW., Washington, D.C; Robert J. Vizas, *Attorney for Defendants Spectra-Physics, Inc. and Laserplane Corporation.*

United States District Court, Northern District of California

United States of America, Plaintiff, v. Spectra-Physics, Inc. and Laserplane Corporation, Defendants. Civil No. C 78–1879 TEH.

Filed: June 2, 1981.

Final Judgment

Plaintiff, United States of America, having filed its complaint on August 18, 1978, and plaintiff and defendants by their respective attorneys having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law and without this Final Judgment constituting evidence or admission by any party with respect to any issue of fact or law:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The complaint states claims upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II

As used in this Final Judgment:

A. "Defendants" shall mean Spectra-Physics, Inc. and/or Laserplane Corporation.

B. "Machine Control Laser Systems" ("MCL Systems") shall mean controls for earth-moving machines generally consisting of (1) a command post or tripod-mounted laser transmitter, (2) a detector or receiver, (3) a control box or electronic interface to the machine, and (4) either a hydraulic system which automatically controls the machine or an indicator or read-out that enables the machine operator to control the machine.

C. "Machine Control Laser Systems Components" ("MCL Systems Components") shall mean one or more of the following components for Machine Control Laser Systems: (1) a command post or tripod-mounted laser tranmitter, (2) a detector or receiver, (3) a control box or electronic interface to the machine, and (4) either a hydraulic system which automatically controls the machine or an indicator or read-out that enables the machine operator to control the machine.

D. "MCL Systems Technical Information" shall mean any written information, process, formula, or method for the manufacture of MCL Systems or MCL Systems Components.

E. "Person" shall mean any individual, partnership, firm, corporation, association, or any other business or legal entity.

III

The provisions of this Final Judgment shall apply to defendants and their officers, directors, agents, employees, subsidiaries, affiliates, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

A. Defendants are ordered and directed to grant to any person who makes a written application therefor within a period of seven (7) years after the date of entry of this Final Judgment:

1. a nonexclusive royalty-free license to make, use and sell MCL Systems or MCL Systems Components under each United States letters patent which defendants had a right to license as of January 1, 1980, such license to be for the full unexpired term of each licensed patent; and

2. a nonexclusive royalty-free license to use for the purpose of making, using and selling MCL Systems or MCL Systems Components, any MCL Systems Technical Information within the possession of defendants as of January 1, 1980, such license to be for the duration requested by the applicant, and to be terminable by the licensee at any time if the MCL Systems Technical Information becomes within the public domain.

B. Defendants are enjoined and restrained from including any restrictions whatsoever in any license granted pursuant to Section IV except as hereinafter provided:

1. A reasonable fee designed to cover the defendants' administrative costs of issuing the license may be charged;

2. Reasonable provisions may be made to forbid the unauthorized use or disclosure to third parties of MCL Systems Technical Information. Defendants also shall have the right to apply restrictive legends to such MCL Systems Technical Information indicating its proprietary and secret nature and to require the return of all copies of such MCL Systems Technical Information upon the termination of the right to use it.

3. Reasonable provisions may be made for cancellation of the license upon breach by the licensee of any of the provisions included in the license.

V

A. Within fifteen (15) days of the date of this decree, defendants shall file with this Court on the public record and submit in writing to those persons set forth by plaintiff in Appendix A hereto as well as to all other persons known by defendants to be engaged in the manufacture or sale of MCL Systems or MCL Systems Components in the United States, a listing of all patents and MCL Systems Technical Information subject to licensing under this decree. Defendants also shall submit in writing this listing to all other persons identified by plaintiff, from time to time, within fifteen (15) days of such identification. Said listing shall generally describe the technology covered by said patents and MCL Systems Technical Information. Within ninety (90) days of the date of this decree, defendants shall by general description advertise all patents and MCL Systems Technical Information available for licensing under this decree in at least two major trade journals of the general construction industry.

B. Beginning ninety (90) days after the date of this decree and continuing annually thereafter, for seven (7) years, defendants shall submit to this Court and to the Assistant Attorney General in charge of the Antitrust Division written reports setting forth the patents and MCL Systems Technical Information which are available for license pursuant to Section IV, the fact and manner of compliance with Paragraph A of this Section V, a listing of persons submitting applications or making inquiries hereunder, and all licenses issued by defendants pursuant to this Final Judgment during the preceding year.

VI

Nothing in this Final Judgment shall prevent any person from attacking at any time the validity or scope of any patent nor shall this Final Judgment be construed as imputing any validity to any patent.

VII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to its principal offices, be permitted:

1. Access during regular office hours of defendants to inspect and copy all relevant books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants and without restraint or interference from them, who may have counsel present; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview officers, employes, and agents of defendants, who may have counsel present;

B. Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested;

C. No information or documents obtained by the means provided in this Section VII shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law; and

D. If at the time information or documents are furnished by defendants to plaintiff in accordance with this Section VII, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendants mark each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceedings (other than a grand jury proceeding) to which defendants are not a party.

VII

Defendants shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets of the Construction Systems Division or the Laserplane Division that the acquiring party agrees to be bound by the provisions of this Final Judgment. An acquiring party subject to this provision shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

IX

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of any violation hereof.

X

The entry of this Final Judgment is in the public interest.

United States District Judge.

APPENDIX A

AGL Corp.
2615 W. Main
Jacksonville, AR

Blount Industries
Box 3511, Hwy. 70 East
North Little Rock, AR 72117

Construction Laser Systems Industries
6383 Arizona Circle
Los Angeles, CA 90045

Control Instruments, Inc.
P.O. Box 1825
Grand Rapids, MI 49501

Laser Alignment
63320 28th St., S.E.
Grand Rapids, MI 49506

Laser Electronics Pty. Ltd.
P.O. Box 359 Southport
Queensland, Australia 4215

Laser Systems of Arizona
10314 W. Montecito
Phoenix, Arizona

Industries Universal
P.O. Box 2028
Calexico, CA 92231

Komatsu Ltd.
Komatsu Building, 2-3-6, Akasaka
Minato-Ku
Tokyo 107, Japan

Reno Energy Systems, Inc.
195 N. Edison
Reno, NV 89502

Vari-Tech Company
546 Leonard St., N.W.
Grand Rapids, MI 49504

Lasertron Company, Inc.
1026 Courtesy Street
Houston, Texas 77032

Honeywell Inc.
Honeywell Plaza
Minneapolis, MN 55408

Deere & Company
John Deere Road
Moline, IL 61265

Caterpillar Tractor Co.
100 N.E. Adams Street
Peoria, IL 61629

JAMES E. FIGENSHAW
GLENDA R. JERMANOVICH
HOWARD J. PARKER
Antitrust Division
Department of Justice
450 Golden Gate Avenue
Box 36046, Room 16216C
San Francisco, California 94102
Telephone: (415) 556-6300

Attorneys for the United States.

United States District Court for the Northern District of California

United States of America, Plaintiff, v. Spectra-Physics, Inc. and Laserplane Corporation, Defendants. Civ. No. C-78-1879 TEH.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)], the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this antitrust proceeding.

I. Nature and Purpose of the Proceeding

On August 18, 1978, the United States filed a civil complaint under Section 15 of the Clayton Act [15 U.S.C. 25], alleging that the defendants had violated Section 7 of the Clayton Act [15 U.S.C. 18]. The complaint charged that the December 8, 1976 acquisition of all the outstanding shares of Laserplane Corporation by Spectra-Physics, Inc. threatened to substantially lessen competition and create a monopoly in the development, manufacture, and sale of construction laser products and systems and machine control laser products and systems. During the course of pre-trial discovery, the Government concluded that the acquisition did not substantially lessen competition in construction lasers and advised the defendants that it would seek relief only with respect to machine control laser products and systems.

II. Description of Practices and Events Involved in the Alleged Violation

Prior to the acquisition, Laserplane Corporation was the dominant firm in the development, manufacture, and sale of machine control laser products and systems that guide and control heavy earth-moving machines for land leveling and farm drainage applications in the general construction and agricultural industries. At that time, machine control laser products and systems had not yet achieved widespread consumer acceptance and total sales were small. Prior to its acquisition of Laserplane, Spectra-Physics produced laser alignment products and systems generally and had produced the components of a machine control laser system which it attempted to sell principally for farm drainage. The Government contends that the acquisition substantially lessened actual and potential competition between Spectra-Physics and Laserplane and increased concentration generally in the development, manufacture and sale of machine control lasers.

Since the filing of the complaint, machine control laser products and systems have found greater consumer acceptance and several new companies have entered the market. The defendants' share of the machine control laser market has declined since the filing of the complaint.

III. Explanation of the Proposed Consent Judgment

The Government and the defendants have stipulated that the proposed consent judgment, which is in a form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation between the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment by the Court is conditioned upon a determination by the Court that the judgment is in the public interest.

The proposed judgment requires the defendants to grant to any person who makes a written application within a period of seven years a nonexclusive royalty-free license to make, use, and sell machine control laser products and systems under any United States patent which the defendants had a right to license as of January 1, 1980. All of the defendants' patents covering products and systems presently being used for machine control laser applications were acquired prior to this date. The proposed judgment also requires the defendants to grant to any person who makes a written

application within seven years a nonexclusive royalty-free license to use any written information, process, formula or method for the manufacture of machine control laser products and systems within defendants' possession as of January 1, 1980.

Because of the competitive importance of technology in this industry, patents and unpatented know-how were among the most important assets involved in the challenged acquisition. Compulsory royalty-free licensing of this technology should remedy the increased concentration and the other anticompetitive effects of the acquisition. Existing competitors in the market may be able to imporve their products and increase sales by obtaining licenses. Licensing may also attract new entry, particularly from manufacturers of heavy machinery which would be likely entrants but for their lack of technological expertise in laser systems. Licensing will also permit both new entrants and existing competitors to expand sales without the threat or fear of any suit for patent infringement.

The defendants are permitted by the proposed judgment to charge a reasonable fee to cover the administrative costs of issuing any license as well as to forbid the unauthorized use or disclosure of the information provided.

IV. Alternatives to the Proposed Consent Judgment

The proposed judgment is the product of lengthy negotiations with the defendants during continuously changing market circumstances. The Government originally sought divestiture of Laserplane's corporate assets by Spectra-Physics.

Although total divestiture has been, and will continue to be, the principal relief sought by the Government in Section 7 cases, the Government has concluded that compulsory, royalty-free licensing of technology is adequate relief in the unique circumstances of this case. Because of the nature of the product market and the current stage of development of the product, Spectra-Physics' manufacturing, sales, and distribution assets have relatively less competitive importance than such assets would have in other industries, whereas Spectra-Physics' technology has relatively more importance. The market has experienced substantial entry by new competitors since the Government filed suit, and the proposed relief is expected to provide additional encouragement to new entry. Finally, divestiture of physical assets in a manner that would ensure competitive viability for both Spectra-Physics and the divested entity would have been more difficult here than in the typical Section 7 case, because many of the assets, including manufacturing facilities, are non-divisible. Therefore, the Government concluded that the proposed relief would remedy the anticompetitive effects of the acquisition as adequately as divestiture would.

V. Remedies Available to Potential Private Plaintiffs

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies that they would have had, were the proposed consent judgment not entered. However, pursuant to Section 5(a) of the Clayton Act [15 U.S.C. § 16(a)], as amended, this judgment may not be used as *prima facie* evidence in private litigation.

VI. Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, San Francisco, California 94102, within the 60-day period provided by the Act. The comments and the Government's responses to them will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of the judgment is necessary in the public interest. The proposed judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification or enforcement of the judgment.

VII. Determinative Documents

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] were considered in formulating this proposed judgment.

Dated:

James E. Figenshaw,

Attorney, U.S. Department of Justice.

[FR Doc. 81-17422 Filed 6-11-81; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations; 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 8th day of June 1981.

Luis Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending June 13, 1981

Name of Applicant, Location of Enterprise, and Principal Product or Activity

Glen-Mar Industries, Inc., and Glen-Mar Associates, Glen Dale, West Virginia—Manufacturer of plastic products (toys, housewares, etc.)

[FR Doc. 81-17276 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-110-C]

Metzinger Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Metzinger Coal Company, R.D. #1, Ashland, Pennsylvania 17921, has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its West Drift located in Columbia County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed it would be activated on knuckles and curves, when no emergency existed, and cause a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operates the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 13, 1981. Copies of the petition are available for inspection at that address.

Dated: June 4, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-17487 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-74-C]

Mine Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mine Hill Coal Company, 247 Wallace Street, Pottsville, Pennsylvania 17901, has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Little Buck Mountain Slope located in Schuylkill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if a "makeshift" safety device were installed, it would be activated on knuckles and curves, when no emergency existed, causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to the miners.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, which have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will at all times provide the same degree of safety to the miners affected as that afforded by the standard.

Request for Comments

Persond interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 13, 1981. Copies of the petition are available for inspection at that address.

Dated: June 4, 1981.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 81-17488 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 81-48; Exemption Application No. D-2209]

Exemption From the Prohibitions for Certain Transactions Involving Bart Hackley Accountancy Corp. Employees Pension Trust Located in Encino, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits: (1) the proposed sale of a parcel of real property (the Property) by the Bart Hackley Accountancy Corporation Employees Pension Trust (the Plan) to Bart Hackley, a party in interest to the Plan; and (2) the past loans of money to the Plan by Bart Hackley and by Bart Hackley Accountancy Corporation (the Employer), also a party in interest to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 24, 1981, notice was published in the **Federal Register** (46 FR 23341) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions

of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the notice.

No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply: (1) to the sale of the Property to Bart Hackley for a cash purchase price which would be the greater of: (a) the highest bid (b) the current appraised value; or (c) the cost of the Property to the Plan including the $167,500 purchase price and all Plan expenditures from the time of purchase to the time of sale, provided that the purchase price is not less than the fair market value of the Property on the date of sale; and (2) effective September 22, 1980, to the past interest-free loans to the Plan by Mr. Hackley and by the Employer totaling, respectively, $31,721.45 and $22,586.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of this exemption.

Signed at Washington, D.C., this 4th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17156 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-50; Exemption Application No. D-2417]

Exemption From the Prohibitions for Certain Transactions Involving Contractor Service & Rentals, Inc. Profit Sharing Plan Located in Charlotte, N.C.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the leasing of real property by the Contractor Service & Rentals, Inc. Profit Sharing Plan (the Plan) to Contractor Service & Rentals, Inc. (the Employer), and the subsequent sale of that property by the Plan to Mount Vernon Charter Corporation (MVC), a party in interest with respect to the Plan. The lease was entered into before the effective date of the Employee Retirement Income Security Act of 1974 (the Act), but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act.

EFFECTIVE DATES: This exemption is effective from January 1, 1975 until September 30, 1979 with respect to the lease and on March 24, 1981 with respect to the sale.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 14, 1981, notice was published in the **Federal Register** (46 FR 21855) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restriction of sections 406(a), 406 (b)(1) and (b)(2), amd 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transactions described in an application filed on behalf of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of

the facts and respresentations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notice to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the leasing by the Plan to the Employer of a parcel of real property located at 317 West Worthington Avenue, Charlotte, North Carolina (the Property), for the period from January 1, 1975 until September 30, 1979, provided the rental payments were not less than fair rental value, and to the sale of the Property by the Plan to MVC on March 24, 1981, for $186,400, provided such amount was not less than the fair market value of the Property on the date of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 4th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17157 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-46; Exemption Application No. D-1752]

Exemption From the Prohibitions for Certain Transactions Involving Everett Clinic Inc. Employees' Profit Sharing Trust Agreement Located in Everett, Wash.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The proposed lease (Proposed Lease) of real property by the Everett Clinic, Inc. Employees' Profit Sharing Trust Agreement (the Plan) to the Everett Clinic, Inc. (the Clinic), the Plan sponsor; and (2) the agreement by the Clinic to indemnify and hold the Plan harmless regarding the Proposed Lease.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: ON March 24, 1981, notice was published in the **Federal Register** (46 FR 18409) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested parties in accordance with the requirements set forth in the notice. No requests for a hearing were received by the Department. One public comment was received in which the applicant's representative disclosed that Olympic Bank of Washington (Olympic) has been appointed fiduciary solely with regard to the Plan's real property assets. The notice of pendency omitted the fact that Capital Consultants, Inc. has served as the Plan's investment manager since March 20, 1974 for the remainder of the Plan's assets and would continue in such role. The Department has concluded that these disclosures by the applicant's representative have no impact on the proposed exemption and

therefore the Department has decided to grant the exemption as proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975 (c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to: (1) The Proposed Lease by the Plan to the Clinic, provided that the terms and conditions of the Proposed Lease are and will remain at least as favorable to the Plan as those it could obtain from an unrelated third party; and (2) the Clinic's agreement to indemnify and hold the Plan harmless regarding the Proposed Lease.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 4th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17158 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-47; Exemption Application No. D-2192]

Exemption From the Prohibitions for Certain Transactions Involving the Profit Sharing Plan for Employees of McKenney's and Affiliated Companies Located in Atlanta, Ga.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits (1) the proposed sale of 100% of the common stock of McKeps Inc. (McKeps Stock) by the Profit Sharing Plan for Employees of McKenney's Inc. and Affiliated Companies (the Plan) to McKenney's Inc., and Affiliated Companies (McKenney's), the sponsor of the Plan and (2) the extension of credit in such sale by the Plan to McKenney's.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216 (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 24, 1981, notice was published in the **Federal Register** (46 FR 18411) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for (1) the proposed sale of 100% of the McKeps Stock by the Plan to McKenney's and (2) the extension of credit in such sale by the Plan to McKenney's. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has satisfied the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest

of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive bnenefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the proposed sale of 100% of the McKeps Stock by the Plan to McKenney's and (2) the extension of credit in such sale by the Plan to McKenney's provided that at the time of the sale the terms of the sale and the extension of credit in such sale are at least as favorable to the Plan as those which the Plan could obtain in a similar transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 4th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17159 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-51; Exemption Application No. D-2466]

Exemption From the Prohibitions for Certain Transactions Involving the Prudential Insurance Company of America's Property Investment Separate Account II Located in Newark, N.J.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption would exempt the acquisition by the Prudential Insurance Company of America's Property Investment Separate Account II (PRISA II) of the Emigrant Savings Bank Building (the Building) from the Emigrant Savings Bank of New York (the Bank) subject to an existing mortgage held by Fisher Forty-Second Street Company (Fisher), a party in interest with respect to PRISA II.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 14, 1981, notice was published in the **Federal Register** (46 FR 21857) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the transaction described in an application filed by legal counsel for PRISA II. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exmptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the

entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the acquisition by PRISA II of the Building from the Bank subject to an existing mortgage held by Fisher provided that the terms of the transaction are not less favorable than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 4th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17180 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-45; Exemption Application Nos. D-1649, D-1650 and D-2107]

Exemption From the Prohibitions for Certain Transactions Involving R & L Grell, Inc. Money Purchase Pension Plan, R & L Grell, Inc. Profit Sharing Plan and R & L Grell, Inc. Defined Benefit Pension Plan Located in Richvale, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits: (1) The assignment of an option to purchase a parcel of land (the Land) to the R & L Grell, Inc. Money Purchase Pension Plan (Money Purchase Plan) and the R & L Grell, Inc. Profit Sharing Plan (Profit Sharing Plan), by Larry Grell, vice president of R & L Grell, Inc. (R & L), on behalf of Heather Farms, a partnership owned one-third by Larry Grell and two-thirds by R & L; (2) the offer of an interest in the Land by the Money Purchase Plan to the R & L Grell, Inc. Defined Benefit Plan (Defined Benefit Plan) and the acceptance of the offer by the Defined Benefit Plan; and (3) the proposed lease of the Land by the Money Purchase Plan and the Defined Benefit Plan (collectively, the Plans) to R & L; and (4) the proposed guarantee of R & L's lease payments by three principal shareholders of R & L.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 24, 1981, notice was published in the **Federal Register** (46 FR 18405) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the notice. No requests for a hearing were received by the Department. One public comment was received, in which the applicants' representative stated that the figures given in the notice of pendency for the net assets of the Money Purchase Plan and the Defined Benefit Plan were reversed. However, the correct figures were utilized in the notice of pendency to calculate the percentage of each Plan's assets involved in the transactions discussed above. The Department has determined that the use of incorrect Plan asset figures in the notice of pendency has no adverse effect on the proposed exemption and has decided to grant the exemption as proposed.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply: (1) effective September 12, 1978, to the assignment of the option to purchase the Land, by Larry Grell on behalf of Heather Farms, to the Money Purchase Plan and the Profit Sharing Plan; (2) effective March 28, 1980, to the offer of an interest in the Land by the Money Purchase Plan to the Defined Benefit Plan and the acceptance of the offer by the Defined Benefit Plan; (3) to the proposed lease of the Land by the Plans to R & L, provided that the terms and conditions of the proposed lease are at least as favorable to the Plans as those they could obtain from an unrelated third party; and (4) to the personal guarantee of R & L's lease payments by Larry Grell, Lawrence Grell, and Roy Grell.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transactions that are the subject of this exemption.

Signed at Washington, D.C., this 4th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17161 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-49; Exemption Application No. D-2371]

Exemption From the Prohibitions for Certain Transactions Involving Taylor Enterprises, Inc. Profit Sharing Plan Located in Mechanicsburg, Pa.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the cash sale of a parcel of real property (the Property) located in Ocean City, Maryland by the Taylor Enterprises, Inc. Profit Sharing Plan (the Plan) to Taylor Enterprises, Inc. (the Employer), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 24, 1981, notice was published in the **Federal Register** (46 FR 18413) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set forth in the notice. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of the Property by the Plan to the Employer for a cash purchase price of the greater of (1) $98,239.67 or (2) the sum of the fair market value of the Property at the time of sale plus all Plan expenditures relating to the Property from the time of purchase to the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms

of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 9th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17162 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-84; Exemption Application No. D-1268]

Exemption From the Prohibitions for Certain Transactions Involving the Thompson Steel Co., Inc., Pension Trust A Located in Canton, Mass.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the past sale of corporate bonds by the Thompson Steel Company Pension Trust A (the Trust) to the Paul Revere Life Insurance Company (PRL), a party in interest with respect to the Trust.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 24, 1981, notice was published in the **Federal Register** (46 FR 18415) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. the notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed to interested persons in accordance with the requirements set out in the notice. One request for a hearing and one public comment were received by the Department, both of which were subsequently withdrawn.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) the fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the intersts of the Trust and of its participants and beneficiaries; and

(C) It is protective of the rights of the participants and beneficiaries of the Trust.

Accordingly, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the sale by the Trust to PRL on August 8, 1977 of Montgomery Ward Credit 8¼ percent bonds due June 30, 2002; and (2) the sale by the Trust to PRL on October 20, 1977 of Diamond International Corp. 8.35 percent bonds due September 1, 2006, provided that the amount the Trust received for each sale of bonds was not less than their fair market value on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction that is the subject of this exemption.

Signed at Washington, D.C. this 7th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration Department of Labor.

[FR Doc. 81-17163 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1931]

Withdrawal of Proposed Exemption Involving the ABC Freight Forwarding Corp. Employees Profit Sharing Plan and Trust Located in New York City, N.Y.

In the **Federal Register** dated February 13, 1981, (46 FR 12363) the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed by the trustees of the ABC Freight Forwarding Corp. Employees Profit Sharing Plan and Trust (the Plan) on behalf of the Plan.

On May 26, 1981, the applicants notified the Department that they no longer were seeking an exemption for the transaction as it is presently

described in the above cited notice. Accordingly, the applicants requested that the application for exemption be withdrawn from consideration by the Department. The Department concurs with the request. The notice of pendency is hereby cancelled and the application is considered withdrawn.

Signed at Washington, D.C., this 4th day of June, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-17155 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-52; Exemption Application No. D-2233]

Exemption From the Prohibitions for Certain Transactions Involving the Parker-Hannafin Corp. Pension and Retirement Income Plans; Located in Cleveland, Ohio

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of two undivided one-half interests in a 31.4 acre parcel of real property located in Irvine, California (the Property) by the Parker-Hannafin Corporation (the Employer), to the Ameritrust Company (Ameritrust), as Trustee for the Parker-Hannafin Corporation Pension and Retirement Income Plans (the Plans), if the Property is rezoned for commercial use.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-7462. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: On March 24, 1981, notice was published in the **Federal Register** (46 FR 18407) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for transactions described in an application filed on behalf of the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented it has complied with the requirements of the notice to interested persons as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of two undivided one-half interests in the Property (located at the northeast corner of Von Karmen Avenue and Michelson Drive in Irvine, California) by the Employer to Ameritrust as Trustee for the Plans, for a total of $13,670,000 provided this amount is no greater than the fair market value of the Property at the time of the sale, and provided that the Property is rezoned for commercial use.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 5th day of June, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-17453 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1450]

Proposed Exemption for Certain Transactions Involving the Pridgeon & Clay, Inc. Restated Profit-Sharing Retirement Trust and the Pridgeon & Clay, Inc. Restated Pension Plan and Trust; Located in Grand Rapids, Mich.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the

Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt financing, conveyancing and leasing arrangements with respect to certain real property involving both the Pridgeon and Clay, Inc. Restated Profit Sharing Retirement Plan and Trust (the Profit Sharing Trust) and the Pridgeon and Clay, Inc. Restated Pension Plan and Trust (the Pension Trust) (collectively referred to as the Plans), and the Michigan National Bank of Grand Rapids, Michigan (the Bank), the Economic Development Corporation of the City of Grand Rapids (EDC), and the Pridgeon and Clay, Inc. (the Employer). The Bank, EDC and the Employer are parties in interest with respect to the Plans.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before July 24, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1450. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver, of the Department of Labor, telephone (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b), and 407(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plans on behalf of the Employer and the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) The Employer, a Michigan corporation created in 1948, has its principal offices and operations at 50 Cottage Grove, Grand Rapids, Michigan. This location is owned by the Plans and has been leased to the Employer since 1968. The Employer has authorized capital stock consisting of 10,000 shares of common stock, par value $10 per share with 3,300 shares issued and outstanding, all owned by Donald V. Clay. Its principal activities are the manufacture of metal flanges, brackets, hangers, and metal cutter dies for the automotive industry, including General Motors Corporation and Ford Motor Company. Historically, when there has been a decline in new car sales the Employer has experienced an increase in its "after market" sales. It employees number approximately 180 and, as of March 31, 1980, its total assets were $10,542,394, with total liabilities of $4,590,135. For the year ended March 31, 1980, its total revenues were $17,952,324, with total earnings before income taxes of $1,719,121. Also, the Employer owns insurance policies on the life of Donald V. Clay from which it is the beneficiary for the sum of $1,212,125.

(2) The Plans were established in 1948 and their last determination letter by the Internal Revenue Service was issued during 1978. The Profit Sharing Trust has approximately 120 participants and the Pension Trust has approximately 125 participants. As of March 31, 1979, the total assets of the Plans were $2,672,129 and as of March 31, 1980, they had increased to $3,067,495. The trustees of the Plans are Arthur R. Snell and John W. McNeil (the trustees) who are partners in the law firm of Miller, Johnson, Snell and Cummiskey of Grand Rapids, Michigan. This law firm has been legal counsel for many years for the Employer and its owner, Donald V. Clay. The Bank was appointed by the Trustees to be the investment manager and the custodian of assets of the Plans which have been invested in marketable securities. The Bank would have no responsibility as a fiduciary of the Plans' assets in the proposed transactions for which this exemption is requested. The law firm in which the Trustees are partners has represented the Bank in special matters; however, it does not represent the Bank in any capacity in the proposed transactions. The Bank has been for many years one of the primary lending sources for the Employer.

(3) EDC is a public body corporate and an instrumentality of the City of Grand Rapids, Michigan. Its sole function with respect to the proposed transactions would be to serve as a conduit for financing the remodeling and construction improvements on the real property owned by the Plans.

(4) The applicants are requesting an exemption from the prohibited transaction provisions of the Act for the following transactions. The Plans propose to borrow $1,500,000 directly from EDC in order to remodel and raze obsolete buildings and to construct new and modern facilities to be used in the Employer's primary manufacturing activities. This undertaking will help relieve conditions of unemployment and will help to encourage an increase of industry or commerce within the City of Grand Rapids. This demolition and construction is to be done to a separate portion of real property (consisting of 115,610 square feet with an orginal cost of $179,292) which the Plans own and lease to the Employer at 50 Cottage Grove, Grand Rapids, Michigan (the Project). As between the Plans, the Profit Sharing Trust owns two-thirds of the Project and the Pension Trust owns one-third. Since EDC has no funds, the Bank has agreed to indirectly finance this aforementioned undertaking of the Plans by purchasing from EDC, for $1,500,000, a tax exempt industrial development bond (the Bond), which would be issued and sold in accordance with the Michigan Economic Development Corporation Act and section 103 of the Code. In accordance with the terms of this financing, the Plans would convey legal title to the Project to EDC so that EDC could mortgage the Project to the Bank for security on the Bond. The Employer would execute and deliver a written guarantee to the Bank for payment of the Bond. Simultanously with these above transactions, EDC would execute an agreement with the Plans for leasing the Project to the Plans and for the repurchasing of the Project by the Plans from EDC upon retirement and redemption of the Bond and the payment of $10; and the Plans would execute an agreement with the Employer for subleasing the Project to the

Employer. Also at this time, the Plans would assign to the Bank, as additional security for payment of the Bond, their position as lessor under the sublease and the rentals to be paid to the Plans by the Employer.

(5) This sublease of the project from the Plans to the Employer would be the foundation for repayment of the financing of the Project. For the first five years of the sublease, the initial rentals of $237,000 per year ($19,750 per month) would yield the Plans a gross return of 14.6 percent on the $1,618,540 appraised fair market value of the competed Project. Furthermore, these rentals would be subject to adjustment every five years in accordance with the Bureau of Labor Statistics Consumer Price Index. At the beginning of the sixth year there would be an increase of the rentals of at least 5 percent per year to not less than $290,250 per year. This minimum increase is to ensure that the Plans will be able to pay their unrelated business income tax, which is computed to be less than $250,000 for the first 10 years of the lease agreement. The sublease would be an "absolute" net lease for the Plans for a term of 15 years with two renewal options of 5 years each by the Employer. The Employer would be responsible for all repairs, utilities, insurance, and taxes of the Project. In addition, the Employer would indemnify the Plans from any liability by reason of any action or casualty arising from the ownership and leasing of the Project. The interests of the Plan in the Project would be further protected by the Employer acquiring insurance coverage in the sum of $2,500,000 for public liability and $2,100,000 for property damage.

(6) Under the lease and repurchase agreement of the Project between EDC and the Plans, the Plans would be obligated to pay monthly rentals of $15,450, and no assets of the Plans, other than the Project itself, could be levied upon in case of default. These monthly rentals would equal the monthly payments which would be due the Bank by EDC for amortizing the interest and principal of the Bond. However, simultaneously with the execution and delivery of the above agreements, EDC would assign to the Bank its position as lessor under the lease and repurchase agreement and the rentals therefrom to ensure payment of the interest and principal on the Bond. These assignments by EDC and the Plans of the lease and repurchasement agreement and the sublease, respectively, would result in the Employer paying all rentals directly to the Bank where the rentals would be deposited in a "Bond Fund". Interest and principal of $15,450 per month owing on the Bond would be paid to the Bank from the Bond Fund and surplus amounts (initially) of $4,300 per month would be allocated to the Plans' bank account. Thus, EDC would have no function other than to serve as a conduit for the tax-exempt financing of the Project. Under Michigan law the Plans would continue to be treated as legal owner of the project with powers to assign the sublease with the Employer in part or in whole. The City of Grand Rapids would exempt the Project from any increases in assessed value for tax purposes for the next 12 years.

(7) The material terms of the Bond issued by EDC to the Bank would be $1,500,000 principal amount, 9¼ percent per annum (or $1,094,926), payable over 10 years on a 15 year amortization schedule. Payments of interest and principal would be made in 119 equal monthly installments of $15,450 with all remaining interest and principal due on the Bond in the sum of $756,376 paid in full on the 120 monthly installment. Under certain circumstances, acceleration of these monthly payments would be permitted. It is anticipated that 15 percent of future contributions by the Employer will be used for acceleration of monthly payments. If this acceleration of monthly payments is undertaken by the Plans and the Employer, the total interest paid on the Bond will be reduced to $804,589. The Bond would not become a general obligation of EDC or of any other political subdivision of the State of Michigan. It would be repaid solely from net revenues derived from leasing or selling the Project.

(8) The Trustees retained Elden J. Nedeau, SREA, MAI an independent, qualified real estate appraiser of Muskegon, Michigan to prepare an appraisal of the properties involved in the proposed transactions, including the current fair market value and rental values thereof. As of October 23, 1979, he determined that assuming completion of the Project on October 15, 1979, it would have a current fair market value of $1,618,540 with a fair rental value of $19,750 per month or $237,000 per year.

(9) The Plans have retained an independent fiduciary, Robert Bowman Company, a Michigan corporation located in Grand Rapids, Michigan, as investment manger (the Manager) for the Plans with regard to the proposed transactions. The Manager has represented that the Project and the proposed transactions as structured are in the best interest of the Plans and their participants and beneficiaries and are protective of the rights of the participants and beneficiaries of the Plans. In accordance with the provisions of the employment contract, the Manager will be responsible for monitoring all terms and conditions of the transactions and assuring that they are complied with and that the Trustees satisfy their fiduciary obligations and take all appropriate action for the protection of the rights of the participants and beneficiaries of the Plans. If the Manager determines it to be in the best interests of the Plans and protective of the rights of the participants and beneficiaries, the Manager has the authority to require that the Trustees terminate the lease agreement between the Employer and the Plans. In that event the Employer shall acquire the Project from the Plans at the current fair market value, as determined by an independent qualified appraiser, subject to all existing indebtedness and upon assumption of all obligations of the Plans under the lease and repurchase agreement with EDC and the mortgage and related Bond documents. The Bank and EDC will simultaneously release the Plans as provided in the lease and repurchase agreement. If the Employer is unable to perform, the Plans may prepay its rental obligations under the lease and repurchase agreement with EDC, and thus, accelerate the repayment of the obligations under the Bond. The terms of the Bond would impose a 3 percent penalty for acceleration during the first five years and no penalty during the last five years. This action would permit the Plans to terminate the lease and repurchase agreement with EDC and obtain a new lessee of the Project or sell the Project.

(10) These proposed transactions were recommended by the Trustees to be of optimum benefit to the Plans and their participants and beneficiaries. The Trustees reviewed past investments by the Plans, and concluded that the best investment returns on the assets held by the Plans has been real estate leased to the Employer. The Trustees felt that the proposed transactions would not only provide excellent investment returns to the Plans but would also provide adequate protection to the rights of the participants and beneficiaries of the Plans.

(11) In summary the applicants represented that the proposed transactions satisfy the statutory criteria contained in section 408(a) of the Act because (a) the proposed transactions

will add substantially to the assets of the Plans with no risk except to a small portion ($179,292 or 5.84 percent of current assets) of Plans' total assets; (b) there are adequate safeguards to protect the rights of the participants and beneficiaries in the guarantees, assignments, and insurance policies plus the limitation of repayment of the financing solely from the rentals or sale of the Project; (c) the financing of the Project has been negotiated at arms-length by the Trustees, and the appraisals of the Project as to fair market value and fair rentals has been conducted by an independent, qualified appraiser; and (d) the Manager has independently determined that the proposed transactions are appropriate for the Plans and in the best interests of the Plans and their participants and beneficiaries with adequate safeguards.

Notice to Interested Persons

Notice of the proposed exemption as published in the **Federal Register** will be posted on employee bulletin boards of the Employer and delivered by first class mail to former employees who are participants or their beneficiaries within fourteen (14) days after the notice of pendency of such proposed exemption is published in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(a)(1) (A) through (F) of the Code shall not apply to the financing, conveyancing, and leasing arrangements involving the indirect loan to the Plans of $1,500,000 by the Bank, the lease and repurchase agreement by EDC and the Plans, and the agreement for leasing the Project to the Employer by the Plans, or to the conveyances, assignments, guarantees and extension of credit according to the terms and conditions as described herein.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application is true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of June 1981.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-17450 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2464]

Proposed Exemption for Certain Transactions Involving the RREEF MidAmerica Fund-II; Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the purchase of a shopping center by RREEF MidAmerica Fund-II (the Fund) from an unrelated party, and the assumption by the Fund of an existing lease to J. C. Penney Company, Inc. (Penney), a party in interest with respect to one of the employee benefit plans participating in the Fund. The proposed exemption, if granted, would affect Penney, the Fund, the J. C. Penney Company, Inc. Pension Plan Trust (the Plan) and other plans that have invested in the Fund.

DATES: Written comments must be received by the Department of Labor on or before July 27, 1981.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2464. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for

exemption from the restrictions of sections 406(a) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed on behalf of RREEF MidAmerica, the Fund's investment manager, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secertary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Penney is an employer whose employees are covered by the Plan. The Plan is a qualified pension plan with approximately 120,000 participants. The Plan is one of several plans which invests in the Fund.

2. The Fund is a group trust created on April 1, 1980, that meets the requirements of Rev. Rul. 56-267, 1956-1 C.B. 206. It is designed to afford plans, qualified under section 401(a) of the Code and thereby exempt from Federal taxation under section 501(a) of the Code, the opportunity to diversify their portfolios by investing, through the Fund in real properties. The Fund is engaged primarily in the business of acquiring, improving, operating and holding for investment income-producing real property (as well as personal or mixed property connected therewith), including commercial, office and industrial property dispersed geographically throughout the United States.

3. The Fund is designed for investment by pension or profit-sharing plans, and the minimum investment in the Fund is $1,050,000. At the present time, fourteen pension or profit-sharing trusts have subscribed to invest in the Fund. The total value of assets of the Fund is currently $84,900,000 of which $2,400,000 was invested by the Plan.

4. The trustees of the Fund are Messrs. Claude N. Rosenberg, Jr., Alexander F. Hogland, Paul Sack, Johnson S. Bogart, Richard J. Bertero, Orra C. Hyde, III, Donald A. King, Jr., Wayne R. Harkins and Dean M. Greenwood. Discretion over the investments of the Fund, within the limits of the investment objectives and criteria of the Fund, has been assigned to RREEF MidAmerica (RMA), a general partnership organized in May, 1979 under the laws of the State of California, primarily for the purpose of managing and operating real estate investment programs such as the Fund. RMA is a registered investment adviser under the Investment Advisers Act of 1940. Its address is 200 East Randolph Drive, Suite 7211, Chicago, Illinois 60601.

5. The general partners of RMA are Messrs. Rosenberg, Hogland, Sack, Bogart, Bertero, Hyde, King, Harkins, Greenwood and RREEF partners, a limited partnership, the general partners of which are Messrs. Rosenberg, John D. Leland, Jr. and Joseph A. Mark. Investment decisions with respect to real properties for the Fund are made by an investment committee of RMA which consists of all the general partners of RMA except RREEF Partners.

6. RMA also acts as investment manager for RREEF MidAmerica Fund-I, a group trust established in 1979. RMA is affiliated with the RREEF Corporation and RREEF USA Partners, which are registered investment advisers for other real estate funds having investment objectives similar to those of the Fund. The RREEF Corporation acts as the investment manager for four RREEF Funds, while RREEF USA Partners acts as the investment manager for RREEF USA Fund-I. In addition to the $2,400,000 that the Plan has invested in the Fund, the Plan has also invested $23,700,000 in other funds managed by RREEF Corporation and RREEF USA Partners. This aggregate Plan investment of $26,100,000 constitutes only 4.1% of the total assets of all RREEF Funds which are valued at $640,800,000. Messrs. Rosenberg, Leland and Mark also are principals and employees of Rosenberg Capital Management, a registered investment adviser which provides investment management services with respect to equity and fixed income securities.

7. None of the individuals mentioned above is an officer, director or employee of Penney or its division, Treasury Drug Company, nor do such individuals hold an equity interest in Penney. Neither Penney nor Treasury Drug Company, nor any officer, director or employee of such companies, has any ownership interest in, or employment capacity with, RMA or any entity affiliated with RMA.

8. The Fund has agreed to purchase the Cambridge Square Shopping Center (the Shopping Center) located in Atlanta, Georgia, from Columbia Square Corporation (Columbia). The Shopping Center is currently partially leased pursuant to various lease obligations, including one lease to Penney which was entered into on August 27, 1980. That lease is for 8,100 square feet of the Shopping Center's 64,269 square feet of rentable space. The leased premises shall be occupied by Treasury Drug Company. The Shopping Center was first brought to the attention of RMA by Coldwell Banker, an independent broker, on November 19, 1980, well after the date on which the Penney lease was entered into. Negotiations began shortly thereafter, and the Agreement of Purchase and Sale was signed on February 17, 1981. The applicant has requested relief from the restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code. The Department sees no apparent violation of section 406 (b)(1) and (b)(2) of the Act and section 4975(c)(1)(E) of the Code. Accordingly, no exemptive relief is being proposed with respect to those sections.

9. The purchase price for the Shopping Center as stated in the Agreement of Purchase and Sale is $3,508,000, subject to possible increase under purchase provisions regarding purchase payments dependent upon certain gross rents from Shopping Center leases. RMA anticipates an overall acquisition cost of approximately $3,655,000 and closing is expected to occur on or shortly before September 30, 1981. Columbia will assign all existing leases, including the lease with Penney, to the Fund.

10. Neither Columbia nor any of its officers, directors or shareholders is affiliated with, in control of, or controlled by Penney or RMA, or in any way related to Penney or RMA, except as lessor to Penney and seller of property to RMA and the Fund.

11. The investment in the Fund by the Plan constitutes less than 3% of the Fund's total assets and less than 1% of the total assets in the Plan. The purchase price of the Shopping Center itself represents 4.1% of the Fund's total assets and within the entire Shopping Center, the subject lease with Penney represents about 12% of the rentable space.

12. The purchase price of the Shopping Center was arrived at by the parties through arm's length negotiation. Because of its expertise in transactions involving commercial real estate, RMA,

consistent with its normal practice, has not sought an appraisal of the property by a third party. Neither the Fund, RMA, nor any affiliates of RMA is participating in any commission in connection with the transaction, nor do RMA and its affiliates have any fiduciary obligation to Columbia.

13. The applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because: (1) RMA believes that the Shopping Center is an excellent investment opportunity for the Fund, particularly at a time when such opportunities are difficult to locate; (2) the terms of the sale were arrived at by RMA and Columbia through arm's-length negotiations; and (3) the terms of the Penney lease have already been negotiated by Penney and Columbia, a corporation totally unrelated to, and independent of, Penney and RMA.

Notice to Interested Persons

Notice of the proposed exemption will be mailed by RMA to the appropriate fiduciary of each plan or trust that has subscribed to invest in the Fund. The notice will be mailed on or before June 22, 1981 of proposed exemption. The notice will inform interested persons of their right to comment with respect to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the act and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the sale of the Shopping Center by Columbia to the Fund and the lease of a portion of the Shopping Center to Penny, which commenced on August 27, 1980, provided the sale and lease terms are no less favorable to the Fund than those available in arm's-length transactions with unrelated parties.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this proposed exemption.

Signed at Washington, D.C., this 8th day of June 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-17451 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2513]

Proposed Exemption for Certain Transactions Involving T. Rowe Price Associates, Inc. Employee Stock Ownership Plan; Located in Baltimore, Md.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the exchange of T. Rowe Price common stock (Price Stock) owned by the T. Rowe Price Associates, Inc. Employee Stock Ownership Plan (the Plan) for Charles Center Properties, Inc. (Charles Center) common stock (Charles Center Stock) owned by T. Rowe Price Associates, Inc. (the Employer). The Plan will also receive cash from the Employer equal to the difference between the value of the Plan's Price Stock and value of the Charles Center Stock. The proposed exemption, if granted, would affect the Employer, the participants and the beneficiaries of the Plan, Charles Center, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department at or before July 17, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-2513. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department,

telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is an employee stock ownership and stock bonus plan, established by the employer in January 1975. As of December 31, 1980, the Plan had 281 participants and assets consisting of approximately $357,000 in cash or cash equivalents and 284,385 shares of Price Stock, aggregately valued at $2,559,465 based on a December 31, 1980 independent appraisal of $9.00 per share. Price Stock is not publicly traded. The Plan holds a 15 precent minority interest in Price Stock. The trustees of the Plan (the Trustees) are Messrs. Howard P. Colhoun, M. Jenkins Cromwell, and E. Kirkbride Miller. Each Trustee is an officer, shareholder, and employee of the Employer. Messrs. Miller and Cromwell are also directors of the Employer.

2. The Employer is a closely-held corporation which maintains its principal offices in Baltimore, Maryland. The Employer is in the business of providing investment advisory services to a number of mutual funds and to other investment clients. The employer is registered as an investment adviser with the Securities and Exchange Commission under the Investment Advisers Act of 1940. The Employer is also registered as an investment adviser under the securities law of various states. As of December 31, 1980, the Employer had under management, net assets in excess of $11 billion. As of December 31, 1980 there were 1,902,375 shares of Price Stock issued and outstanding.

The stock of the Employer, other than that held by the Plan, or held pursuant to distribution under the Plan, is owned by the directors and present or former employees of the Employer. These individuals are parties to an agreement with the Employer which restricts the alienability of Price Stock by requiring sales of such stock to the Employer at a predetermined price. Those employees receiving Price Stock from the Plan may either retain or sell their shares to any willing buyer subject only to a right of first refusal vested in the Employer and to the availability of exemptive relief from registration under the securities laws.

3. Among the assets of the Employer is all of the issued and outstanding common stock of Charles Center. Charles Center is a Maryland corporation formed in 1973. Charles Center's sole asset is a 99.9925 percent general partnership interest in a limited partnership (the Partnership) formed in Maryland in 1961. Holders of the remaining .0075 percent limited partnership interest include a director and two employees of the Employer. The Partnership's major asset is a leasehold interest in a 22 floor office building and appurtenant real property (collectively called the Building) located in Baltimore, Maryland. The Building is known generally as One Charles Center. The Building is a major office facility constructed in the early 1960's. The Building is currently encumbered by a Deed of Trust (the Building Mortgage) securing a debt owed to the Metropolitan Life Insurance Company (Metropolitan). The Building Mortgage is due and payable on January 1, 1982. The Partnership has the right to refinance the Building Mortgage over a term extending up to December 1, 1990. The Partnership also holds cash or cash equivalents totaling approximately $400,000.

4. The Building is subject to an Indenture of Lease (the Ground Lease) effectuated on October 27, 1964 between the Partnership as tenant and Metropolitan as landlord. The Ground Lease expires on October 31, 2004. The Partnership may extend the lease for two additional terms of 20 years each. The annual rental due under the Ground Lease is $111,800.04. As of July 1, 1976, the Building was leased (the Building Lease) in its entirety through 1990 to the Baltimore & Ohio Railroad Company (B & O). On April 30, 1979, B & O assigned the Building Lease to Chessie Resources, Inc. (Chessie). Both B & O and Chessie are members of a group of corporations known generally as the Chessie System. The Building Lease is a "net net" lease, requiring the tenant to pay, in addition to rent, all expenses associated with the Building. These expenses include Building Mortgage payments and refinancing charges as well as rentals due under the Ground Lease. Neither B & O, Chessie, nor any other occupant of the Building is related to the Employer. The annual rent due under the Building Lease is presently $200,000. This amount is to be increased to $300,000 for the years 1982 through 1985 and to $400,000 during the years 1986 through 1990, the final years of such lease.

5. Pursuant to the terms of an option agreement entered into between Charles Center and B & O during 1976 and subsequently assigned by B & O to Chessie in April 1979, Chessie has an exclusive right to acquire the Partnership at any time during calendar year 1982. However, Chessie must first notify Charles Center during the month of August 1981 before exercising the option. The purchase price would be a cash payment of $2,200,000 plus the current assets of the Partnership. Chessie would also assume the outstanding balance of the Building Mortgage at the time of the sale. The exact balance owed on the Building Mortgage will depend upon when the sale closes, but it is expected to approximate $7,000,000.

6. The Plan Trustees propose that the Plan be amended to become a profit sharing plan and that the Plan exchange all of its Price Stock for all of the Charles Center Stock. The Plan will also receive cash equal to the amount by which the value of the Plan's Price Stock exceeds the value of the Charles Center Stock. The proposed exchange is intended to facilitate the diversification of the Plan's holdings and to improve the Plan's investment return. The Employer will bear all expenses incidental to the transaction.

7. On January 1, 1981, the American Appraisal Company of Milwaukee, Wisconsin (American Appraisal), an independent appraiser, placed the fair market value for a minority interest transaction of the Plan's Price Stock at $9.00 per share. American Appraisal is familiar with the Employer and has appraised Price Stock during the five years of the Plan's existence. In addition, the firm's annual appraisal report has been relied upon by many employees of the Employer, who have sought to sell their shares of Price Stock

back to the Employer. The applicant has represented that in valuing Price Stock, American Appraisal has considered certain factors identified in Revenue Ruling 59–60, a ruling pertaining to the valuation of closely held stock. American Appraisal has also incorporated a 25 percent discount (the Discount) for illiquidity in determining the value of Price Stock. The Discount has been utilized on a consistent basis in all prior appraisals submitted by American Appraisal. The Plan acquired Price Stock during 1975–79; each acquisition utilized the Discount. The Discount takes into consideration a potential seller's inability to market Price Stock in an unrestricted fashion to third parties. It also includes certain resale impediments placed upon prospective purchasers. The applicant represents that discounts for non-marketability have been accepted by the Internal Revenue Service and have been ratified by the courts in cases decided under Revenue Ruling 59–60. Although the applicant acknowledges the contemplated transaction involves a redemption by the issuer, the applicant suggests this does not obviate the appropriateness of the adjustment for illiquidity because the stock, in the hands of the issuer as purchaser, will be no less illiquid than it is presently.

8. Several appraisals have been performed of the Partnership's leasehold interest in the Building. These appraisals have been conducted annually by Mr. Ronald Lipman (Lipman), CRE, MAI of the real estate consulting firm, Lipman, Frizzell, and Mitchell which is located in Baltimore, Maryland. Mr. Lipman is independent of and unrelated to the Plan or the Employer. In an appraisal of October 27, 1980, Mr. Lipman placed the value of the leasehold interest at $9,725,000. Mr. Lipman based this value on the assumption that Chessie would exercise its option to purchase the subject property in 1982. In an appraisal dated March 2, 1981, Mr. Lipman placed the value of the Building at $14,250,000. This figure was based on the assumption that the leasehold interest in the Building was not subject to the purchase option and the Building Lease. On April 8, 1981, Mr. Lipman rendered another appraisal opinion which concluded the leased fee interest was worth $13 million. The amount derived was based on the assumption that Chessie would not exercise the option to purchase but would rather continue as a tenant until 1990 under the subsisting Building Lease. For purposes of the proposed transaction, the applicant represents that the Plan will acquire the Charles Center Stock on the basis that Charles Center's interest in the leasehold is valued at $9,725,000, the lowest of the appraised amounts.

9. An independent fiduciary for the Plan has been retained with respect to the proposed transaction. The independent fiduciary is Mr. George D. Hubbard (Hubbard), a Maryland attorney with the Baltimore law firm of Semmes, Bowen and Semmes. Mr. Hubbard has substantial experience in the area of employee benefit matters. Neither Mr. Hubbard nor his firm represents the Employer or the Plan. Mr. Hubbard has preliminarily approved the proposed exchange. Before the exchange takes place, Mr. Hubbard will review the transaction again and give his final approval. The transaction will not be effectuated without Mr. Hubbard's final consent.

In making his preliminary determination, Mr. Hubbard has expressed his views on the questions of diversification and encumbrances to which the leasehold interest in the Building is subject. He has also commented on the reasonableness of the Discount utilized by American Appraisal in performing annual appraisals of Price Stock. With respect to the diversification issue, Mr. Hubbard indicates that as a result of the proposed transaction, there will be a greater opportunity for the Plan to diversify its assets regardless of whether or not Chessie exercises its option. Mr. Hubbard makes this statement based on his perception that a long term investment in the Building presents a much more normal and attractive investment for the Plan and its participants than an investment entirely in the stock of a corporation which is the sole source of assets contributed to the Plan and which is controlled by persons whose interests may not be entirely the same as the interests of the Plan participants as a whole. On the issue of encumbrances, Mr. Hubbard represents that Chessie must make the required payments or it will forfeit its interest under the Building Lease. Considering the financial resources of Chessie, its needs for office space, and its present commitment to the Building, he thinks it highly unlikely that Chessie would permit such a default to occur. If it did, he indicates the Plan would then own the leasehold interest in the Building free and clear of the Building Lease. In that case, the Plan should not incur any difficulty in releasing the Building and obtaining a considerably higher income than is currently available under the existing Building Lease. With regard to the reasonableness of the Discount, Mr. Hubbard believes the 25 percent adjustment is fair to Plan participants and within the range established by other independent appraisers in valuing the stock of closely-held corporations. He notes that American Appraisal has used the Discount percentage consistently in prior year appraisals of Price Stock and that the Discount has proven acceptable to Plan participants wishing to dispose of their shares of Price Stock. Mr. Hubbard states that since a third party would not purchase Price Stock without the Discount there is no reason to expect the Employer to do so.

In addition, Mr. Hubbard states that the proposed transaction is in the interests of the Plan and its participants and beneficiaries because it will allow the Plan to embark on a more suitable investment program than its current investment program. Mr. Hubbard notes that the earnings history of the Employer has not been an impressive one, and during the years 1975–79, Price Stock has ranged in value between $5.00 and $5.39 per share. Although he states the year 1980 was a good year for the Employer, there is no assurance this performance will continue. Therefore, he believes it would be a prudent decision for the Plan to divest itself of its Price Stock at this time rather than deferring such action until some time in the future when the current fair market price of $9.00 per share might not be available. He states that what the Plan can now acquire is an investment in a high quality office building at a price that is a fair one. This investment will either provide the Plan with cash within one year or it will remain an asset of the Plan having a substantially enhanced future value and generating a flow of income.

10. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (a) the values of the stock to be exchanged will be determined by independent appaisers; (b) the transaction is subject to the review and approval of an independent fiduciary, and the transaction will not take place unless the fiduciary determines that the transaction is in the best interests of the Plan and its participants and beneficiaries; (c) all attendant fees and expenses will be borne by the Employer; and (d) the Plan will be able to divest itself of an asset producing little income for one

provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested persons which include all present participants of the Plan as well as all former participants and beneficiaries who have vested account balances in the Plan, within five days of the publication of the notice of pendency in the **Federal Register**. The notice will be provided to participants and beneficiaries by either first class mail or personal delivery. In addition, notice will be provided to those participants currently employed by the Employer by posting a copy of the notice of pendency on appropriate bulletin boards. Such notice shall include a copy of the notice of pendency and shall inform interested persons of their right to comment on and/or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other producing a steady stream of income which may be reduced to cash in the event a third party option is exercised. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the exchange of the Plan's Price Stock for the Employer's Charles Center Stock and cash, provided the consideration received by the Plan is not less than the fair market value of the Plan's Price Stock at the date of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of June, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-17452 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period June 1–8, 1981.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have 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.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-9405; Mayer, Rothkopf Industries, Inc., Orangeburg, SC

TA-W-9954; Logerfo Brothers, New York, NY

TA-W-9575; Hillsboro Manufacturing Co., Hillsboro, OH

TA-W-9414; Lake Erie Screw Corporation, Lakewood, OH

TA-W-9997 & 10,267; Huntington Alloys, Inc., Huntington, WV and Burnaugh, KY

TA-W-9737; Medusa Corporation, Manitowoc, WI

TA-W-9672; Margie Sportswear, Inc., New York, NY

TA-W-9557; Patricia Gale Coat Co., Inc., Brooklyn, NY

TA-W-9101; Kelly-Springfield Tire Company, Tyler, TX

TA-W-11,316; Kelly-Springfield Tire Company, Fayetteville, NC

TA-W-10,583; D.A.B. Industries, Inc., Vassar, MI

TA-W-10,457; Michigan Blue Print and Supply Company, Detroit, MI

TA-W-10,403; Robins Products Company, Farmington, MI

TA-W-10,345; Capac Metal Products, Inc., Capac, MI
TA-W-10,879; Bethlehem Steel Corporation, Department #560, Bethlehem, PA
TA-W-10,471; Huron Tool & Mfg. Company, Lexington, MI
TA-W-10,406; Target Stamped Products Corporation, Vernon, OH
TA-W-10,999; Butler Taconite Company, Keewatin, MN
TA-W-10,909; SMC Manufacturing Co., Deckerville, MI
TA-W-10,456; H&S Manufacturing Co., Antioch, IL
TA-W-10,261; Magco Plastics, Inc., Cumberland, RI

TA-W-10,544; South River Coat Company, South River, NJ

Investigation revealed that sales by manufacturers for which the subject firm produced under contract did not decline.

TA-W-10,533 & 10,533A; Rome Turney Radiator Company, Rome and Clark Mills, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finned tubing are negligible.

TA-W-11,547; St. Joe Zinc Company, Balmat and Edwards, NY

Investigation revealed that criterion (3) has not been met.

TA-W-11,656; Design & Manufacturing Corporation, Connersville, IN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of household dishwashers are negligible.

TA-W-10,951; Joseph M. Herman Shoe Company, Scarborough, ME

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-9374; Beatty Machine & Mfg. Co., Hammond, TN

Investigation revealed that criterion (3) has not been met. Declines in employment at Beatty are attributable to declines in repair operations which do not constitute the production of an article within the meaning of Section 223 of the Act.

TA-W-10,016; Como Plastics, Columbus, IN

Investigation revealed that criterion (3) has not been met. With respect to household products, general industrial products and automotive products, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to data processing products, sales increased in quantity from 1978 to 1979 and in the first seven months of 1980 compared to the same period in 1979.

TA-W-10,716 & 10,850; Arrow Clothes, Inc., Andrew Pallack & Co., Inc., New York, NY

Investigation revealed that criterion (3) has not been met. Aggreate U.S. imports of uniforms are negligible. U.S. imports of men's and boys' tailored suits did not increase as required for certification. Production of ladies jackets by Arrow clothes increased from 1978 to 1979 and in the January through October 1980 period compared to the same period in 1979.

TA-W-11,081 & 11,082; Curlee Clothing Co., Lexington, KY and Winchester, KY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of men's and boys' tailored suits, dress coats and sportscoats and suits did not increase as required for certification.

TA-W-11,141; Hathaway Tool Works, Eaton Rapids, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stamping dies are negligible.

TA-W-11,841; ACF Industries, Inc., Carter Carburetor Division, St. Louis, MO

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of carburetors are negligible.

TA-W-172; Johnstown Leather Corp., Johnston NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tanned deerskins and elkskins are negligible.

TA-W-9977; Republic Steel Corporation, Union Drawn Division, Massillon, OH

Investigation revealed that criterion (3) has not been met. With respect to carbon to carbon and alloy steel bars, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to stainless steel bars, shipments increased from 1978 to 1979 and in the first half of 1980 compared to the first half of 1979.

TA-W-11,845; Old Ben Coal Company Mine #24, Benton, IL

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal did not increase as required for certification.

TA-W-9062; Lori Coat Co., Inc., Philadelphia, PA

Investigation revealed that criterion (3) has not been met. Evidence revealed that Lori lost the business of its principal manufacturer in November 1978 and was unable to find a steady replacement through 1979 and the first half of 1980.

Affirmative Determinations

TA-W-9528; Frederick Tool Corporation, Elkhart, IN

A certification was issued covering all workers separated on or after January 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period June 1–5, 1981. Copies of these determinations are available for inspection in Room S-5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: June 8, 1981.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17483 Filed 6-11-81; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-11, 284]

AMF/Harley-Davidson Motor Co., Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 1980 in response to a worker petition received on October 3, 1980 which was filed by the Allied Industrial Workers of America on behalf of workers at the Milwaukee, Wisconsin plant of AMG/Harley-Davidson Motor Company, Inc.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-10,324). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 4th day of June 1981.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17491 Filed 6-11-81; 8:45 am]
BILLING CODE 4501-28-M

[Secretary of Labor's Order 3–81]

Delegation of Authority and Assignment of Responsibility Under the Trade Act of 1974

June 1, 1981.

1. *Purpose.* To delegate authority and assign responsibility for carrying out functions and responsibilities vested in the Secretary of Labor pursuant to the Trade Act of 1974 (Pub. L. 93–618), related legislation and Executive Orders.

2. *Background.* For those sectors of the economy which may suffer from increased imports, the Trade Act of 1974 provides for import relief and for effective adjustment assistance for firms, communities, and workers.

Heretofore operating responsibility for the Department's worker adjustment assistance programs has been divided in the Department of Labor (DOL). The Bureau of International Labor Affairs (ILAB) conducted investigations and made determinations of the eligibility of workers to apply for trade adjustment assistance. Actual assistance to workers including cash trade readjustment allowances, training opportunities, employment services which includes counseling, testing, and job placement services, and relocation allowances was provided by the Employment and Training Administration (ETA), working through State Employment Security Agencies.

Divided responsibility, however, made it more difficult to fix accountability for the performance of DOL activities under the Trade Act. Therefore, after considerable review a determination was made to transfer the worker trade adjustment assistance activities to the predominant operating component, namely ETA. This arrangement will allow ILAB to concentrate on its international labor policy role unfettered by operating program responsibilities. The transfer also is consistent with the President's desire to better integrate the trade adjustment assistance allowance programs and regular unemployment insurance programs.

3. *Delegation of Authority and Assignment of Responsibility*

a. *The Assistant Secretary for Employment and Training* is hereby delegated authority and assigned responsibility for coordinating, monitoring, and insuring that the functions of the Secretary of Labor under the Trade Act of 1974 are carried out, including but not limited to:

(1) Developing and promulgating Secretary of Labor regulations required to implement the Act.

(2) Developing and promulgating program performance standards relating to the conduct of certification investigations, public hearings, issuance of notice of certification decisions, delivery of program benefits, and other processes involved in the administration of the trade adjustment assistance program.

(3) Initiating investigations upon receipt of petitions for a certification of eligibility to apply for adjustment assistance for workers, and conducting public hearings upon receipt of requests for such hearings.

(4) Determining eligibility of groups of workers to apply for adjustment assistance and publishing the determinations in the **Federal Register.**

(5) Providing, through State Employment Security Agencies (SESA's), a full range of worker trade adjustment assistance benefits to eligible workers, including but not limited to cash benefits, employment services, training opportunities and cash job search and relocation allowances.

(6) Providing for effective administration of the workers trade adjustment assistance program through technical assistance and training to SESA's, monitoring SESA performance, and establishing a system of program and financial reporting.

(7) Developing and carrying out a program to inform and assist workers with respect to the trade adjustment assistance program, including a program of early detection of import injury.

b. *The Commissioner of Labor Statistics* is delegated authority and assigned responsibility for:

(1) Developing, pursuant to Section 282 of the Act, in cooperation with representatives of the Department of Commerce, an import monitoring system and publishing and distributing a summary of the information gathered under that section.

(2) Working with other appropriate agencies of the of the Government, as required, to develop uniform statistics on imports, exports, and production to facilitate comparisons.

c. *The Solicitor of Labor* shall have responsibility for providing legal advice and assistance to all officers of the Department in connection with the carrying out of their responsibilities herein assigned.

4. *Transfer of Resources.* The Office of Trade Adjustment Assistance, ILAB, is hereby transferred to the Employment and Training Administration. This transfer includes personnel, funds, equipment, supplies and records associated with ILAB's responsibilities in connection with the administration of the worker trade adjustment assistance provisions of the Trade Act of 1974.

The Assistant Secretary for Administration and Management is responsible for assuring an orderly and equitable transfer of resources, including assurance of consultation and negotiations as appropriate with representatives of the exclusive union.

5. *Reservations of Authority.* Reserved to the Secretary are the following:

a. Preparing reports for the President and the Congress, including recommendations, as appropriate, with respect to administration of the Trade Act of 1974, and particularly the Department of Labor responsibilities thereunder.

b. Entering into agreements with any State, or with any State agency, who will act as agent of the United States in carrying out Department of Labor responsibilities under the Act.

c. Entering into necessary agreements with agencies of the Federal Government, as required, to carry out responsibilities under the Act.

6. *Directives Affected.* Secretary's Order 3–75 is canceled. Secretary's Order 3–72 remains in effect except where inconsistent with the provisions of this Order, and paragraph 4a(6) of Secretary's Order 4–75 is superseded by the provisions of this Order.

7. *Effective Date.* This Order is effective immediately for planning purposes, and for implementation no later than one month from the date of this Order.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81–17485 Filed 6–11–81; 8:45 am]

BILLING CODE 4510–23–M

[Secretary of Labor's Order 2–81]

Enforcement of Equal Opportunity in Programs and Activities Receiving or Benefiting from Financial Assistance from the Department of Labor

June 1, 1981.

1. *Purpose.* To transfer the Office of Civil Rights from the Office of the Secretary to the Office of the Assistant Secretary for Administration and Management, and to delegate authority and assign responsibility for enforcing equal opportunity in programs and activities receiving or benefiting from Department of Labor (DOL) financial assistance.

2. *Policy.* It is the policy of the DOL to promote equality of opportunity in its programs and activities, and to ensure full compliance with all constitutional, statutory and regulatory

nondiscrimination provisions in programs and activities receiving or benefiting from DOL financial assistance.

3. *Background.* A Secretary of Labor Task Force recommended in 1980 that the civil rights activities of the several DOL grant-making components be centralized and made independent of program management. That recommendation was implemented with the issuance of Secretary's Order 8–80 of October 28, 1980, which established an Office of Civil Rights (OCR) in the Office of the Secretary with responsibility for enforcing Title VI of the Civil Rights Act of 1964 (CRA OF 1964) in programs of the Department. However, in an effort to further centralize and coordinate related activities, OCR is now being transferred to the Office of the Assistant Secretary for Administration and Management (OASAM). The transfer is consistent with the earlier recommendation of separate OCR activities from program management, and it facilitates coordination between Titles VI and VII of the CRA of 1964. The latter title, which deals with internal DOL equal employment opportunity, already is an OASAM responsibility.

4. *Transfer.* The Office of Civil Rights, including its field structure, is hereby transferred from the Office of the Secretary to the Office of the Assistant Secretary for Administration and Management. The field employees will become a part of the Regional Administrator-OASAM component in their respective regions. This transfer includes personnel, funds, equipment, supplies and records associated with administration and enforcement of equal opportunity in grant-making programs of the DOL. The Assistant Secretary for Administration and Management will complete arrangements to effect an orderly and equitable transfer of resources, including assurance of consultation and negotiations as appropriate with the unions representing affected employees.

5. *Delegation of Authority and Assignment of Responsibilities.*

a. *The Assistant Secretary for Administration and Management,* working through the Director, Office of Civil Rights (OASAM), is delegated authority and assigned responsibility for:

(1) Developing, implementing, and monitoring the Department's civil rights enforcement program under all equal opportunity and nondiscrimination requirements applicable to programs of financial assistance from DOL, including Title VI of the Civil Rights Act of 1964, as amended; Section 132 of CETA; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX Of the Education Amendments of 1962, as amended; and the Age Discrimination Act of 1975, as amended (hereinafter referred to as grant related EO laws).

(2) Establishing and formulating all policies, standards, and procedures, as well as issuing rules and regulations governing the civil rights enforcement programs under grant related EO laws.

(3) Achieving compliance through pre-award and post-award reviews, complaint investigations, negotiations, conciliation proceedings, and the application of appropriate sanctions and remedies.

(4) Cooperating and coordinating with DOL Agencies, the Office of the Inspector General, the Department of Justice, the Equal Employment Opportunity Commission and other agencies in connection with the administration of nondiscrimination and equal opportunity laws.

(5) Developing and conducting training and providing technical assistance for the National and regional staffs as well as for DOL Agency program staffs, recipients of DOL financial assistance, and beneficiaries.

(6) Developing and implementing a management information and case tracking system which can be used to assess the effectiveness of the DOL Civil Rights Program; and directing and organizing the regional programs and staff for civil rights in carrying out their functions under the grant related EO laws.

b. *Agency Heads* are assigned responsibility for:

(1) Promoting and instituting measures to assure that equality of opportunity is a reality in all Federal financial assistance programs funded by their Agency.

(2) Assuring that equal opportunity requirements are incorporated into all regulations, procedures and other guidelines and references covering grant programs administered by their Agency.

(3) Maintaining close liaison and cooperating with the Assistant Secretary for Administration and Management, and the Director of the Office of Civil Rights in all civil rights and equal opportunity matters affecting the financial assistance programs of their Agency.

c. *The Solicitor of Labor* is responsible for providing legal advice and assistance to, and representing DOL officials in legal proceedings as appropriate in connection with the administration of grant related EO laws.

6. *Directives Affected.* Secretary's Order 8-80 is canceled.

7. *Effective Date.* This Order is effective immediately for planning purposes, and for implementation no later than one month from the date of this Order.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 81-17484 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-23-M

[TA-W-9,528]

Frederick Tool 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 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 28, 1980 in response to a petition which was filed on behalf of workers at Frederick Tool Corporation, Elkhart, Indiana. The workers produce stamped steel hardware items including primarily folding banquet table legs and hand tools.

Evidence developed in the course of the investigation revealed that all of the criteria have been met.

U.S. imports of hand tools increased absolutely and relative to domestic production in 1979 compared to 1978 and increased absolutely for the period of January through September 1980 compared to the same period in 1979.

U.S. imports of articles like or directly competitive with the folding banquet table legs produced at Frederick Tool Company increased absolutely in 1979 compared to 1978 and increased in the first nine months of 1980 compared with the same period in 1979.

The Departments of Labor and Commerce conducted surveys of the major customers of Frederick Tool Corporation. The surveyed customers, accounting for a substantial proportion of Frederick Tool's sales declines, indicated increased purchases of imported folding banquet table legs and hand tools and decreased purchases of the same products from Frederick Tool

Corporation during the period under investigation.

On September 19, 1980 Frederick Tool Corporation was certified eligible to apply for trade adjustment assistance by the Department of Commerce (F–IN–1246–00).

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 folding banquet table legs and hand tools produced at Frederick Tool Corporation, Elkhart, Indiana 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 Frederick Tool Corporaton, Elkhart, Indiana who became totally or partially separated from employment on or after January 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 2nd day of June 1981.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 81-17489 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, 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 inports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 22, 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 June 22, 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 29th day of May 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
Bardstown Manufactors (ILGWU)	Bardstown, Ky	5/22/81	5/20/81	TA-W-12,719	Women's apparel.
Corn Products, a Unit of CPC International, Inc. (OCAW).	Pekin, Ill	5/21/81	5/12/81	TA-W-12,720	Corn sweeteners, starches and various food products.
F & D Coat Company (workers)	Brooklyn, N.Y	5/27/81	5/20/81	TA-W-12,721	Ladies' coats and rain coats.
Flo-Nor Corp. (company)	Chula Vista, Calif	5/26/81	5/10/81	TA-W-12,722	Dressess, blouses and pants.
Norris Industries, Inc., McIntosh Div. (USWA)	Kendallville, Ind	5/22/81	5/20/81	TA-W-12,723	Rotor segments, power steering pistons, brake plates.
Norris Industries, Inc., McIntosh Div. (USWA)	Bluffton, Ohio	5/22/81	5/20/81	TA-W-12,724	Rotor segments, power steering pistons, brake plates.
Norris Industries, Inc., McIntosh Div. (USWA)	Upper Sandusky, Ohio	5/22/81	5/20/81	TA-W-12,725	Roto segments, power steering pistons, brake plates.
Novelty Yarn Corp., HRH Knitting Div. (Teamsters)	Jersey City, N.J	5/27/81	5/20/81	TW-W-12,726	Knitted fabrics.)
Oxwall Tool Co., Inc. (workers)	Oxford, N.J	5/22/81	5/18/81	TA-W-12,727	Nonpower hand tools.
Pinchneyville, Garment Co. (workers)	Pinckneyville, Ill	5/27/81	5/21/81	TW-W-12,728	Women's blouses, dresses and pants.
Union Special Corp. (workers)	Woburn, Mass	5/22/81	5/20/81	TW-W-12,729	Industrial sewing machines.
Carterton Manufacturing Co. (company)	Bridgeton, N.J	5/29/81	5/27/81	TA-W-12,730	Children's pants.
ConsumerTechnology, Inc. (workers)	Sunnyvale, Calif	5/29/81	5/19/81	TA-W-12,731	Television decoders.
(The) Gilbert Shoe Co. (company)	Thiensville, Wis	5/29/81	5/13/81	TA-W-12,732	Children's shoes.
Hyde Athletic Industries, Spot-Bilt Factory (workers)	Bangor, Maine	5/28/81	5/18/81	TA-W-12,733	Athletic footwear.
K & R Sportswear (ILGWU)	Elizabeth, N.J	4/2/81	3/31/81	TA-W-12,734	Ladies' sportswear.
Platt Saco Lowell (workers)	Easley, S.C	5/28/81	5/19/81	TA-W-12,735	Versamatic drawing frames, roviematic roving frames, spinomatic spinning frames and plymaster heavy ring twisters.

[FR Doc.81-17486 Filed 6-11-81 8:45]

BILLING CODE 4510-28-M

[TA-W-12,586]

Lane Cedar Products; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated of April 6, 1981 in response to a worker petition received on April 1, 1981, which was filed on behalf of workers at Lane Cedar Products, Springfield, Oregon.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-12,153). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 4th day of June, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17492 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,244]

Potter & Brumfield Division, AMF Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 9, 1981 in response to a worker petition received on February 3, 1981 which was filed on behalf of the workers at Marion, Kentucky plant of the Potter & Brumfield Division of the AMF Corporation.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 4th day of June 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17493 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,010]

Smart Maid Coat and Suit Corp.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 31, 1980 in response to a worker petition received on December 22, 1980 which was filed on behalf of workers producing misses' and juniors' coats and suits.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-11,757). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 4th day of June 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17495 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,518]

Thorsby Manufacturing Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1980 in response to a worker petition received on October 24, 1980 which was filed by the International Ladies' Garment Workers Union on behalf of workers at Thorsby Manufacturing Company, Thorsby, Alabama.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-11,172). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 4th day of June, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17490 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-12,225, TA-W-12,226, TA-W-12,227]

Troy Television, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 9, 1981 in response to a worker petition received on January 30, 1981 which was filed on behalf of workers at the Plattsburg, New York; Albany, New York; and Troy, New York facilities of Troy Television, Incorporated.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed in Washington, D.C. this 4th day of June, 1981.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-17494 Filed 6-11-81; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (81-54)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee.

DATE AND TIME: June 29, 1981, 9:45 a.m. to 5:45 p.m.; June 30, 1981, 9 a.m. to 5 p.m.; and July 1, 1981, 9 a.m. to 12 p.m.

ADDRESS: National Aeronautics and Space Administration, Room F5026, 400 Maryland Ave. SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code SS, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-3653).

SUPPLEMENTARY INFORMATION: The NAC Space Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Science programs.

The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including committee members and other participants). Topics under discussion at this meeting will include a status report and overview of the Space Science programs and a discussion of long range planning.

Type of Meeting: Open

Agenda: June 29, 1981

9:45 a.m.—Status of Space Science Advisory Committee (SSAC) Actions—Space Science Board (SSB) Activities—NASA Advisory Council (NAC)—NAC, Solar System Exploration Committee.

10:30 a.m.—Office of Space Science (OSS) Program and Budget Status.

11 a.m.—Origins of Plasma in the Earth's Neighborhood (Open).

1 p.m.—Gravity Probe-B (GP-B).

2 p.m.—Halley's Comet Missions.

3:15 p.m.—Explorer Subcommittee Report and Explorer Issues.

4:15 p.m.—Spacelab Utilization and Space Platforms.

5:15 p.m.—Preliminary Discussion of Recommendations/Writing Assignments.

5:45 p.m.—Adjourn.

June 30, 1981

9 a.m.—NASA Public Information Activities, Publications, etc.
10:45 a.m.—Space Science Tactics and Strategy.
1 p.m.—Discussion of Committee Recommendations/FY 1983 Budget Issues and Priorities.
3:30 p.m.—Committee Writing.
5 p.m.—Adjourn.

July 1, 1981

9 a.m.—Discussion of Committee Recommendations and Future SSAC Activities.
12 p.m.—Adjourn.

June 5, 1981.

Robert F. Allnutt,

Associate Deputy Administrator.

[FR Doc. 81-17394 Filed 6-11-81; 8:45 am]

BILLING CODE 7510-01-M

[Notice (81-55)]

NASA Wage Committee; Meeting Postponement

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting postponement.

SUMMARY: The scheduled meeting on June 26, 1981, of the NASA Wage Committee, published in the **Federal Register** May 29, 1981, (46 FR 29012), has been postponed. The meeting will be held July 8, 1981. All other information regarding this meeting remains the same as previously announced.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah C. Green, Code NPM-28, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8520).

June 8, 1981.

Robert F. Allnutt,

Associate Deputy Administrator.

[FR Doc. 81-17396 Filed 6-11-81; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Comanche Peak Units 1 and 2; Meeting

The ACRS Subcommittee on Comanche Peak Units 1 and 2 will hold a meeting on June 29, 1981 at the Braniff House Hotel, W. Airport Drive, Dallas/Ft. Worth, TX to begin its review of the application of the Texas Utilities Generating Company for a license to operate the Comanche Peak Units 1 and 2. The Subcommittee will discuss certain items such as Organization, Training program, Quality Assurance program, etc. related to Comanche Peak Units 1 and 2. Notice of this meeting was published May 19.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, June 29, 1981, 1:00 p.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Texas Utilities Generating Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) betwen 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 9, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-17505 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 37 and 58 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Licenses for operation of the Brunswick Steam Electric Plant, Units Nos. 1 and 2 (the facility) located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

These changes to the Licenses involve incorporation of required operability dates for the modified Augmented Off-Gas Systems at the facility.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated April 17, 1981, (2) Amendment Nos. 37 and 58 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. 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 3rd day of June 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-17506 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-254-OLA and 50-265-OLA]

Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972,

published in the **Federal Register** (37 FR 38710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered:

Commonwealth Edison Company and Iowa-Illinois Gas & Electric Company, Quad Cities Station, Units 1 and 2 Facility Operating License Nos. DPR-29 and DPR-30

This Board is being constituted pursuant to a notice published by the Commission on April 30, 1981, in the **Federal Register** (46 FR 24336) entitled, "Commonwealth Edison Co. and Iowa-Illinois Gas & Electric Co.; Consideration of Amendment to Facility Operating License".

This Board is comprised of the following Administrative Judges:

James L. Kelley, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Peter A. Morris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Richard F. Foster, P.O. Box 4263, Sunriver, Oregon 97701.

Issued at Bethesda, Maryland, this 5th day of June 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-17507 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, (DAEC) located in Linn County, Iowa. The amendment is effective as of the date of its issuance.

This amendment changes the Technical Specifications to clarify requirements concerning (1) core alterations, (2) core thermal limits, (3) reportable occurrence actions, (4) minimum sample analysis frequencies for SR-89, and to incorporate current Standard Technical Specifications requirements, into these Technical Specifications. The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated April 23, 1976 and October 26, 1977, (2) Amendment No. 69 to License No. DPR-49, and (3) the Commission's letter to the Iowa Electric Light and Power Company dated June 3, 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 Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. 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 3rd day of June 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-17508 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issed Amendment No. 70 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to reflect changes in the surveillance requirements associated with the river water supply system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 24, 1981, as supplemented June 2, 1981, (2) Amendment No. 70 to license No. DPR-49, and (3) the Commission's related Safety Evaluation, all of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 428 Third Avenue, SE., Cedar Rapds, Iowa 52401. 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 8th day of June 1981.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 81-17509 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-30 and 50-185]

National Aeronautics and Space Administration; Order Authorizing Dismantling of Facilities and Disposition of Component Parts

By applications dated March 17, 1980, as revised November 7, 1980 and February 23, 1981, the National

Aeronautics and Space Administration (NASA or the licensee) requested authorization to dismantle the Plum Brook Reactor (a test reactor) and the Plum Brook Mock-up Reactor (a research reactor) (the facilities) located at the Plum Brook Reactor Facility near Sandusky, Ohio, and to dispose of the component parts, in accordance with plans submitted as part of the applications. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License" was published in the Federal Register on May 9, 1980 (45 FR 30757) for the Plum Brook Reactor and on May 9, 1980 (45 FR 30758) for the Plum Brook Mock-up Reactor. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Nuclear Regulatory Commission (the Commission) has reviewed the applications in accordance with the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts in accordance with the licensee's dismantling plans will be in accordance with the regulations in 10 CFR Chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis for the findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an environmental impact appraisal for this action. Based on that appraisal, the Commission has determined that this action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, NASA is hereby authorized to dismantle the Plum Brook Reactor and the Plum Brook Mock-up Reactor covered by Facility Licenses Nos. TR-3 and R-93, respectively, and dispose of the component parts in accordance with their dismantling plans and the Commission's rules and regulations.

After completion of the dismantling and decontamination, the submission of a report on the radiation survey to confirm that radiation levels at the facilities meet the values defined in the dismantling plans and inspection by representatives of the Commission, consideration will be given to whether a further order should be issued terminating Facility Licenses Nos. TR-3 and R-93.

For further details with respect to this action see (1) the applications for authorization to dismantle the facilities and dispose of component parts dated March 17, 1980, as revised by letters dated November 7, 1980 and February 23, 1981, (2) the Commission's related Safety Evaluation, (3) the Commission's Environmental Impact Appraisal, and (4) the Commission's Negative Declaration dated May 26, 1981 (which is also being published in the Federal Register). All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of May 1981.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 81-17510 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-30 and 50-185]

Negative Declaration for the National Aeronautics and Space Administration; Plum Brook Reactor and Plum Brook Mock-up Reactor

The U.S. Nuclear Regulatory Commission (the Commission) has considered the order authorizing dismantling of facilities and disposition of component parts for the National Aeronautics and Space Administration (the licensee) Plum Brook Reactor and Plum Brook Mock-up Reactor operated under Facility Licenses Nos. TR-3 and R-93. The order authorizes the licensee to disassemble the reactors, and to dispose of the component parts.

The Commission's Office of Nuclear Reactor Regulation has prepared an environmental impact appraisal for these reactors. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland, this 26th day of May 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-17511 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361-OL, 50-362-OL]

Southern California Edison Co., et al. (San Onofre Nuclear Generating Station, Units 2 and 3); Order (Time and Place of Final Prehearing Conference on Emergency Planning Issues and Change of Place for Evidentiary Hearing on Seismic Issues)

June 8, 1981.

A final prehearing conference pursuant to 10 CFR 2.752 on emergency planning issues in this proceeding will begin at 9:00 a.m. on June 18, 1981 in San Diego, California in the Executive Room of the Stardust Hotel and Country Club. The Hotel is located at 950 Hotel Circle North. The conference will be open to the public.

The parties are directed to submit proposed agenda items to the Board Chairman at the informal discovery session earlier that week. Where appropriate, as in the case of revised contentions, specific language should accompany the agenda item. The parties should be prepared to discuss the possibility of partial or complete consolidation of the Intervenors' Guard and Friends of the Earth.

The Board previously issued an Order stating that the evidentiary hearing on seismic issues would be held in Courtroom 8 of the United States District Court in San Diego. That Courtroom subsequently became unavailable for that purpose. The evidentiary hearing on seismic issues will be held in the Stardust Room of the Stardust Hotel and Country Club, 950 Hotel Circle North, San Diego. The hearing will begin at 9:00 a.m. on June 22, 1981.

It is so ORDERED.[1]

Dated at Bethesda, Maryland this 8th day of June, 1981.

[1] The Applicants filed a motion proposing that a final prehearing conference be held on June 10, 1981, this motion we are granting except for the exact date. The Applicants' proposed date and alternative dates were discussed at length in telephone conference calls on May 29 and June 2, 1981. All parties had a full opportunity to express their preferences and views. In these circumstances, we advised the parties that written responses to the Applicants' motion were unnecessary and would be dispensed with.

For the Atomic Safety and Licensing Board.

James L. Kelley,

Chairman, Administrative Judge.

[FR Doc. 81-17512 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 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 (TSs) 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.

This amendment modifies the TSs dealing with reactor decay heat removal capability and also updates the TS Table of Contents.

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 December 26, 1980, (2) Amendment No. 38 to License No. NPF-3, and (3) the Commission's letter to the Toledo Edison Company dated June 1, 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 Government Documents Collection, William Carlson Library, University of Toledo, 2801 W. Bancroft Avenue, Toledo, 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 1st day of June 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-17513 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 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 surveillance requirements for the Intermediate Range Neutron Flux and Rate Instrumentation in that a Channel Functional Test is not required at reactor startup if performed within the previous seven days. The change makes the surveillance requirement at startup consistent with that of the Source Range Instrumentation. The change is consistent with current NRC standard requirements for Intermediate Range Instrumentation for all pressurized water reactors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 22, 1978, (2) Amendment No. 39 to License No. NPF-3, and (3) the Commission's letter to the Toledo Edison Company dated June 1, 1981. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the Government Documents Collection, William Carlson Library, University of Toledo, 2801 W. Bancroft Avenue, Toledo, 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 1st day of June 1981.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 81-17514 Filed 6-11-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-11086]

International Harvester Credit Corp.; Application and Opportunity for Hearing

June 8, 1981.

Notice is hereby given that International Harvester Credit Corporation (the "Company") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the successor trusteeship of Commerce Union Bank under five existing indentures of the Company which are qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under any of such indentures.

The Company alleges that:

1. The Company had outstanding on April 16, 1981 the following described securities issued under the following indentures, each of which was qualified under the Act in connection with the registration under the Securities Act of 1933 of the securities issued thereunder, the file number of each such Registration Statement being set forth in parentheses below:

(a) $50,000,000 4¾% Debentures Series B Due 1981, under Indenture dated as of November 1, 1958 between the Company

and Continental Illinois National Bank and Trust Company of Chicago, Trustee, as supplemented by Supplemental Indenture dated August 1, 1960 (File No. 2-16795);

(b) $50,000,000 8⅝% Debentures Due 1991, under Indenture dated as of August 1, 1971 between the Company and The Chase Manhattan Bank (National Association), Trustee (File No. 2-41096);

(c) $60,000,000 7⅝% Debentures Due 1993, under Indenture dated as of February 1, 1972 between the Company and The Northern Trust Company, Trustee (File No. 2-42830);

(d) $75,000,000 9% Notes Due April 1, 1984, under Indenture dated as of April 1, 1976 between the Company and Bank of America National Trust and Savings Association, Trustee (File No. 2-55565); and

(e) $100,000,000 8.35% Notes Due December 15, 1986, under Indenture dated as of December 15, 1976 between the Company and Continental Illinois National Bank and Trust Company of Chicago, Trustee (File No. 2-57773).

2. As has been publicly reported, the Company and its parent, International Harvester Company ("IH"), are each negotiating an agreement for new revolving credit facilities to replace current short-term borrowings of the Company and IH. The indebtedness of the Company under its proposed revolving credit agreement will be secured. As a result of their involvement in such negotiations or their anticipated roles in the restructuring of the indebtedness of the Company or for other reasons, each of the Trustees named in paragraph 1 above has notified the Company of its resignation or its intention to resign as Trustee under the Indenture or Indentures under which it serves as Trustee, each such resignation to become effective upon acceptance by the successor Trustee of appointment under each such Indenture. The Company therefore intends to appoint Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, as successor Trustee under each such Indenture.

3. Each of the Indentures referred to in paragraph 1 above contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.

4. The securities issued under each of the Indentures listed in paragraph 1 above are wholly unsecured. All of such securities constitute senior indebtedness of the Company; the securities issued under each such Indenture rank equally with the securities issued under each other such Indenture.

5. Each of the Indentures referred to in paragraph 1 above provides that, with certain exceptions, the Company will not subject to lien any of its property or assets without securing the payment of the principal of and premium, if any, and the interest on the securities issued under such Indenture equally and ratably with any and all other obligations and indebtedness secured by such lien, so long as any such other obligations and indebtedness are so secured. Because the indebtedness of the Company under its new revolving credit agreement referred to in paragraph 2 above will be secured, the securities outstanding under each of the Indentures referred to in paragraph 1 will, when the Company enters into the new revolving credit agreement, become equally and ratably secured, and will remain so secured so long as any indebtedness of the Company under its new revolving credit agreement is secured; thereafter such securities will again become wholly unsecured.

6. At such time as the indebtedness of the Company under its new revolving credit agreement becomes secured, the issue of securities outstanding under each of the Indentures referred to in paragraph 1 above will become and be secured by the same pool of collateral, equally and ratably with the indebtedness of the Company under the new revolving credit agreement and with the issue of securities outstanding under each other such Indenture, as well as with all other indebtedness of the Company to be secured by such collateral.

7. In order to secure the indebtedness referred to in paragraph 6 above (the "Secured Debt"), the Company expects to enter into certain agreements (the "Security Arrangements") with a bank (which will not be Commerce Union Bank) to be appointed trustee with respect to the Collateral (the "Collateral Trustee"). The Security Arrangements wil provide, *inter alia*, that if circumstances occur under which the Collateral Trustee takes action to realize on the collateral, all amounts so realized will be held in trust by the Collateral Trustee and distributed, equally and ratably, to all holders of Secured Debt (including for the purposes of any such distribution the trustees under each indenture of the Company under which Secured Debt is outstanding). If the indebtedness outstanding under any of the Indentures referred to in paragraph 1 above is not paid when due, or if such indebtedness has been declared payable prior to its stated maturity pursuant to the terms of any such Indenture, the Trustee under any such Indenture will be entitled to give notice to the Collateral Trustee requiring the Collateral Trustee to take action to realize on the collateral.

8. The effect of the Security Arrangements will be to insure that if any holder or group of holders of Secured Debt becomes entitled to cause the collateral Trustee to realize on the collateral, all holders of Secured Debt, including the indebtedness outstanding under each of the Indentures listed in paragraph 1 above, will benefit ratably.

9. For the foregoing reasons, the Company believes that serving as Trustee under any one of the Indentures listed in paragraph 1 above, and continuing such trusteeship during such time as the indebtedness outstanding under each such Indenture is secured and thereafter, when such indebtedness again becomes wholly unsecured, should in no way inhibit, discourage or otherwise inhibit, discourage or otherwise influence Commerce Union Bank's actions as Trustee under any one or more of such other Indentures. Consequently, its trusteeship under all of such Indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as Trustee under any of such Indentures.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application which is a public document on file in the office of the Commission at the Public Reference Room, 1100 L Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than June 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 law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17446 Filed 6-11-81; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-11136]

International Harvester Credit Corp.; Application and Opportunity for Hearing

June 8, 1981.

Notice is hereby given that International Harvester Credit Corporation (the "Company") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the continued trusteeship of Manufacturers Hanover Trust Company ("Manufacturers Hanover") under two existing indentures of the Company which are qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover from acting as trustee under either such indenture.

The Company alleges that:

1. The Company had outstanding on April 16, 1981 the following described securities issued under the following indentures, each of which was qualified under the Act in connection with the registration under the Securities Act of 1933 of the securities issued thereunder, the file number of each Registration Statement being set forth in parentheses below:

(a) $75,000,000 7½ percent Debentures Due 1994, under Indenture dated as of January 15, 1973 between the Company and Manufacturers Hanover, Trustee (File No. 2-46636); and

(b) $100,000,000 13½ percent Notes Due August 1, 1988 under Indenture dated as of August 1, 1980 between the Company and Manufacturers Hanover, Trustee (File No. 2-68588).

2. As has been publicly reported, the Company and its parent, International Harvester Company ("IH"), are each negotiating an agreement for new revolving credit facilities to replace current short-term borrowings of the Company and IH. The indebtedness of the Company under its proposed revolving credit agreement will be secured.

3. Each of the Indentures referred to in paragraph 1 above contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.

4. The securities issued under each of the Indentures listed in paragraph 1 above are wholly unsecured. All of such securities constitute senior indebtedness of the Company; the securities issued under each such Indenture rank equally with the securities issued under the other such Indenture.

5. Each of the Indentures referred to in paragraph 1 above provides that, with certain exceptions, the Company will not subject to lien any of its property or assets without securing the payment of the principal of (and premium, if any) and the interest on the securities issued under such Indenture equally and ratably with any and all other obligations and indebtedness secured by such lien, so long as any such other obligations and indebtedness are so secured. Because the indebtedness of the Company under its new revolving credit agreement referred to in paragraph 2 above will be secured, the securities outstanding under each of the Indentures referred to in paragraph 1 will, when the Company enters into its new revolving credit agreement, become equally and ratably secured, and will remain so secured so long as any indebtedness of the Company under its new revolving credit agreement is secured.

6. At such time as the indebtedness of the Company under its new revolving credit agreement becomes secured, the issue of securities outstanding under each of the Indentures referred to in paragraph 1 above will become and be secured by the same pool of collateral, equally and ratably with the indebtedness of the Company under the new revolving credit agreement and with the issue of securities outstanding under the other such indenture, as well as with all other indebtedness of the Company to be secured by such collateral.

7. In order to secure the indebtedness referred to in paragraph 6 above (the "Secured Debt"), the Company expects to enter into certain agreements (the "Security Arrangements") with a bank (which will not be Manufacturers Hanover) to be appointed trustee with respect to the collateral (the "Collateral Trustee"). The Security Arrangements will provide, *inter alia*, that if circumstances occur under which the Collateral Trustee takes action to realize the collateral, all amounts so realized will be held in trust by the Collateral Trustee and distributed, equally and ratably, to all holders of Secured Debt (included for the purpose of any such distribution the trustees under each indenture of the Company under which Secured Debt is outstanding). If the indebtedness outstanding under either of the Indentures referred to in paragraph 1 above is not paid when due, or if such indebtedness has been declared payable prior to its stated maturity pursuant to the terms of either such Indenture, the Trustee under such Indenture will be entitled to give notice to the Collateral Trustee requiring the Collateral Trustee to take action to realize on the collateral.

8. The effect of the Security Arrangements will be to insure that if any holder or group of holders of Secured Debt becomes entitled to cause the Collateral Trustee to realize on the collateral, all holders of Secured Debt, including the indebtedness outstanding under each of the Indentures listed in paragraph 1 above, will benefit ratably.

9. By virtue of the Security Arrangements described above, continuing to serve as Trustee under either of the Indentures listed in paragraph 1 above during such time as the indebtedness outstanding under each such Indenture is secured should in no way inhibit, discourage or otherwise influence Manufacturers Hanover's actions as Trustee under the other such Indenture. Consequently, its trusteeship under both such Indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover from acting as Trustee under either such Indenture.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at the Public Reference Room 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than June 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 law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem

necessary or appropriate in the public interest and the interest of the investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17447 Filed 6-11-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17850; File No. SR-NASD-81-10]

National Association of Securities Dealers, Inc., Proposed Rule Change; Self-Regulatory Organizations

Comments requested on or before July 6, 1981.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 29, 1981, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Swap transactions that are arranged before the effectiveness of a fixed price offering are not generally viewed as being legally consummated until effectiveness of the fixed price offering. Nonetheless, the fair market price of securities taken in trade in such situation is normally determined at the time of the pricing of the fixed price offering, which occurs on the day before effectiveness usually in the afternoon, and the swap is arranged on the basis of that price. In such cases, for purposes of Section 8(a), the determination of the "fair market price at the time of purchase" of the securities to be taken in trade may be made as of the time of pricing of the fixed price offering. As to swaps agreed upon at a time after effectiveness of the offering, fair market price of the swapped securities must be determined as of the time the transaction is legally consummated.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The language of Section 8(a) provides that a member engaging in a swap transaction "shall purchase the securities at a fair market price at the time of purchase. . . ." The problem perceived by the membership with respect to the foregoing language is that it may not always be clear when the time of purchase occurs for purposes of Section 8(a). This results from the fact that the prices at which swap transactions are to be effected are normally arranged at the time of pricing of the fixed price offering. This usually occurs on the afternoon prior to effectiveness of the offering, whereas both transactions are not legally consummated until the following day upon effectiveness of the offering.

If the fair market price of the swapped security were only permitted to be determined as of the date of effectiveness, the members agreeing to take securities in trade would risk engaging in an inadvertent overtrade because of the potential for market change as to the swapped securities between the time the terms of the swap are arranged and the time the transaction is legally consummated.

The Association believes this result would have no valid regulatory purpose and that the proper interpretation of Section 8 permits the determination of the fair market price of the securities taken in trade to be as of the time the terms of the swap are arranged, generally at the time of pricing of the offering, rather than at the time of effectiveness of the offering. Accordingly, the Interpretation makes clear that the term "fair market price at the time of purchase" means the fair market price at the time arrangement was made to swap the securities.

The Association has authority under Section 15A(b)6 of the Act to issue the Interpretation which is the subject matter of this filing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Association does not envision any burden on competition resulting from this Interpretation.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received in connection with the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 6, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 8, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-17448 Filed 6-11-81; 8:45 am]

BILLING CODE 8010-01-M

Privacy Act of 1974; Alteration of System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Alteration of system of records.

SUMMARY: The Securities and Exchange Commission is publishing notice of technical amendments to its system of records identified as SEC–100, Automated Personnel Information System, which was previously identified in 43 FR 21769 (May 19, 1978).

DATES: These amendments shall become effective June 12, 1981.

FOR FURTHER INFORMATION CONTACT: Andrew W. Sidman, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272–2454.

SUPPLEMENTARY INFORMATION: The Automated Personnel Information System was established to enable the Commission's Office of Personnel to provide a more rapid means to produce notifications of personnel actions and pay changes; to enable the updating of selected data contained in Official Personnel Folders on a more timely basis and allow easier access to that data by authorized members of the staff; and to supply more up-to-date and more frequent reports to SEC management on personnel actions and status.

The alternations of the system announced today will affect only the storage, retrievability, safeguards, and retention and disposal of information contained therein, as well as adding a system manager. In view of the non-sustantive nature of these changes, the Commission is not required to provide advance notice to Congress and the Office of Management and Budget ("OMB"). *See* OMB Circular No. A–108, Transmittal Memoranda No. 1. The amended portions of the notice are italicized.

SEC–100

SYSTEM NAME:

Automated Personnel Information System—SEC

SYSTEM LOCATION:

Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees, past and present.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records consists of summaries of information received from the following category of records: (a) applicant files (Standard Forms 171 and resumes, attorney supplements to applications, applicant correspondence and evaluations, and summer employment files); (b) official personnel folders (Civil Service Commission files); (c) service record cards; (d) merit promotion posting files, including supervisory appraisals for jobs advertised under SEC Merit Promotion Program; (e) chronological copies of personnel actions (Standard Forms 50); (f) employee payroll number; (g) official position description; (h) supergrade submissions (correspondence with Civil Service Commission requesting new supergrade allocations or changes with respect to existing ones); and (i) annual performance rating and position classification certification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR, sections 213, 293, 302 and 335 and Civil Service Regulations promulgated thereunder.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The records will be used by the SEC staff for (a) preparation of forms relating to official personnel actions; (b) computation of personnel strength of Commission divisions and offices; (c) certification of employment for credit checks or job applications; (d) recording of personnel actions processed; (e) preparation of reports and statistics on personnel activity; (f) location of personnel having specific skills and training; and (g) monitoring personnel actions concerning the staff (i.e., date of employee's last promotion, employee's position description number, etc.).

2. Any record in this system of records may be used by the Commission in connection with any action or proceeding brought by an employee before another agency or a court of law to review personnel action taken by the Commission or the failure by the Commission to take action.

3. Any record in this system may be used in any proceeding where the federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

4. Any record in this system of records may be disclosed as a "routine use" to a federal, state or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

5. Any record in this system of records may be disclosed to a federal, state or local governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. The records in this system of records may be used as a data source for management information, to enable the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; they may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to local specific individuals for personnel research or other personnel management functions.

7. Records in this system may, in the discretion of the Commission's staff, be disclosed to any person during the course of any inquiry or investigation conducted by the Commission's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appear to be relevant at the time to the subject matter of the inquiry.

8. Disclosure may be made to a congressional office of information contained in the records relating to any individual in response to any inquiry from the congressional office made at the request of that individual.

9. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are computerized and maintained on magnetic disk (current

and historical records) and magnetic tape (historical records and backup).

RETRIEVABILITY:

Information is retrieved by name, employee identification code, or social security account number, *or via a generalized query capability.*

SAFEGUARDS:

Direct access via computer terminals is restricted to certain *SEC staff on a need to know basis* through use of identification codes. *Access via batch capability must be recommended by Division/Office Heads and authorized by the System Manager(s). Authorization forms will be maintained by the Office of Information Systems Management.* Computer disk and tape files, on which the data is stored, are available only through the librarian. Computerized backup files are stored at a secured auxiliary SEC storage facility. The building where the records are maintained has a 24-hour security guard.

RETENTION AND DISPOSAL:

Computerized files will be retained during the time the employee is employed by the Commission and *after separation from the Commission.*

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director and the Director of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Office of Personnel, 500 North Capitol Street, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedure for gaining access to or contesting the contents of these records may contact the Office of Personnel, Securities and Exchange Commission, Washington, D.C. 20549.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

Records in category (a) are obtained from applicant concerned and interviewer evaluating the applicant. Records in categories (b), (d) and (e) are obtained from employee and supervisors concerned. Records in category (c) are obtained from official personnel folder of the employee concerned. Records in category (f) are assigned to the employee by the Commission and are obtained from the employee's official personnel folder. Records in category (g) are obtained from interviews by position classifiers and/or management analysis staff of the Executive Director's Office with employee and his/her supervisor(s) and administrative assistant. Records in category (h) are obtained from official personnel files, office classification files, interviews by position classifiers, and the employee concerned. Records in category (i) are obtained from annual performance rating files.

By the Commission.

George A. Fitzsimmons,

Secretary.

June 4, 1981.

[FR Doc. 81-17516 Filed 6-11-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Print Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of art print advisory panel.

SUMMARY: A closed meeting of the Art Print Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held July 14 and 15, 1981.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5547, Washington, D.C. 20224, Telephone No. (202) 566-6143 (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Print Advisory Panel will be held on July 14 and 15, 1981, beginning at 9:30 a.m. in Room 3411, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals and allocations of value of the assets in art print publishing ventures involved in Federal income tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 81-17496 Filed 6-11-81; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 113
Friday, June 12, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

[M-318; June 10, 1981]

Short notice and closure of Board Meeting

TIME AND DATE: 9:30 a.m., June 10, 1981.

PLACE: Room 1012, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Discussion on the status of the TWA matching fare dispute with Lufthansa. (BIA)
2. Discussion on the negotiation strategies for the upcoming talks with ECAC on fare flexibility. (BIA)
3. Upcoming talks with Portugal. (BIA)
4. Undocketed-Application of Transportes Aereos Portugueses, E.P. for a Statement of Authorization to operate a series of on-route Public Charter flights—staff recommends consideration of CAB countermeasures to the Portuguese denial of U.S. carrier charter authority at New York (BIA, OGC)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-918-81 Filed 6-10-81; 3:28 pm]

BILLING CODE 6320-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

Closed Commission meeting.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Tuesday, June 16, 1981, following the Open Meeting, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Draft Decision in the Cowles Broadcasting, Inc., Daytona Beach, Florida, television comparative renewal proceeding. (Docket Nos. 19168, 19170).

Hearing—2—Memorandum Opinion and Order in the Sulphur Springs, Texas FM comparative proceeding (Docket Nos. 80-60 and 80-61).

Hearing—3—Draft Decision in the Stereo Broadcasters, Inc., Garden City, New York FM License renewal proceeding. (Docket No. 20590).

Hearing—4—Draft Decision in the Deer Lodge Broadcasting, Inc., KDRG license renewal prceeding, Deer Lodge, Montana (Docket No. 21398).

Hearing—5—Draft Decision in the E. Boyd Whitney, Farmington, New Mexico renewal proceeding (Docket Nos. 21519, 21520).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public affairs Office, telephone number (202) 254-7674.

Issued: June 10, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-919-81 Filed 6-10-81; 3:30 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

Open Commission meeting

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, June 16, 1981, starting at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Fourth Report and Order to amend Parts 0, 13, 73, 74, and 83 of the Commission's Rules concerning the First Class Radiotelephone Operator License and commercial radio operator licenses generally. *Summary:* The Commission considers the elimination of the First Class Radiotelephone Operator License and allowing the holders of any class of commercial operator license, including the Restricted Radiotelephone Operator Permit, but excluding the Marine Radio Operator Permit, to install, maintain, repair and supervise the transmitting equipment at AM, FM, and TV broadcast stations and at FM and TV broadcast translator stations.

General—2—*Title:* Radio Frequency Interference to Electronic Equipment (General Docket 78-369). *Summary:* The Commission considers what further action it will take in General Docket 78-369. Additionally, the Commission examines a report prepared by its staff on Radio Frequency Interference. In light of this report, the Commission will consider the implications to and options on pending legislation.

General—3—*Title:* Allocation of FY-1981 Policy Research Funds. *Summary:* This item seeks funding approval of a research project that will collect and develop information to support long range spectrum planning.

Private Radio—1—*Title:* Amendment of Part 90 of the Commission's rules to designate frequencies in the 806-821 MHz and 851-866 MHz bands for slow-growth land mobile radio systems of certain categories of users; to allocate frequencies in these bands for specific groups of radio services frequency pools; to facilitate authorization of wide-area mobile radio communications systems on frequencies allocated for trunked systems; and to allocate additional frequencies in these bands to loaded Specialized Mobile Relay-Trunked systems located in areas having all presently allocated trunked frequencies assigned (PR Docket Nos. 79-191 and 79-334; RM-3691). *Summary:* The FCC will consider whether to adopt a Further Notice of Proposed Rule Making that acts upon petitions for reconsideration of its Report and Order making special provision for slow-growth private land mobile radio systems in the 806-821 MHz and 851-866 MHz bands for certain categories of radio users (PR Docket No. 79-191, FCC 80-663, released December 10, 1980); whether to allocate frequencies in these bands, which have been held in reserve, for specific groups of radio services frequency pools; whether to adopt proposed rules facilitating authorization of wide-area mobile radio communications systems on frequencies in these bands allocated for trunked systems (PR Docket No. 79-334, FCC 79-855, released January 3, 1980); and whether to institute rule making to allocate additional frequencies in these bands to loaded Specialized Mobile Relay-Trunked systems located in areas having all presently-allocated trunked frequencies assigned (RM-3691).

Assignment and Transfer—1—*Title:* (1) Request for issuance of a tax certificate in connection with the assignment of license of AM station KTNQ, Los Angeles, California, from Storer Broadcasting Company to K-Love Radio Broadcasting, Inc. (2) Request for issuance of a tax certificate in connection with the assignment of license of AM station WMJK, Kissimmee, Florida, from Major

Market Media, Inc. to Central Florida Spanish Broadcasting. *Summary:* The application to assign the license for AM station KTNQ was granted by the Chief, Broadcast Bureau, pursuant to delegated authority on July 13, 1979. The application to assign the license for AM station WMJK was granted by the Chief, Broadcast Bureau, pursuant to delegated authority on September 11, 1980. The assignors in these unrelated sales have requested tax certificates for the sale of their stations to Hispanics, pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—2—*Title:* Transfer of control and assignment of license applications for Stations WHIZ–AM–FM–TV, Zanesville, Ohio; WOMP–AM & FM, Bellaire, Ohio; and WNXT–AM & FM, Portsmouth, Ohio (BTC–780823EG, BTCH–780823EO and BALCT–780823IA; BTC–780825EE and BTCH–780825EF; BTC–780825EG and BTCH–780825EH respectively). *Summary:* The Commission will consider whether this intrafamily transfer of grandfathered media interests is consistent with the multiple ownership rules.

Assignment and Transfer—3—*Title:* Request for issuance of a tax certificate in connection with sale of standard broadcast station WKTQ, Pittsburgh, Pennsylvania, from Nationwide Communications, Inc., to BENI Broadcasting of Pittsburgh, Inc., (BAL–80108HU, granted March 30, 1981). *Summary:* The Commission will consider the request by Nationwide Communications, Inc., for the issuance of a tax certificate in accordance with the Commission's *Statement of Policy on Minority Ownership of Broadcast Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—4—*Title:* Modification of processing standard for determining the financial qualifications of broadcast station purchasers. *Summary:* The Commission will consider modifying the financial standard used in processing assignment and transfer applications to make it more consistent with requirements for other broadcast applicants.

Renewal—1—*Title:* Applications of the Cleveland Board of Education for Renewal and Assignment of the License of Noncommercial Station WBOE–FM, Cleveland, Ohio, to the Cleveland Public Library; and the Mutually Exclusive Application of Cleveland Public Radio for a Construction Permit. *Summary:* The Commission considers the applications of the Cleveland Board of Education for renewal and assignment of the license of noncommercial station WBOE–FM, Cleveland, Ohio, to the Cleveland Public Library; and the mutually exclusive application of Cleveland Public Radio for a construction permit.

Broadcast—1—*Title:* Request by CBS Inc. for a declaratory ruling on Section 73.658(j)(1)(ii) of the Commission's Rules. *Summary:* A request for a declaratory ruling concerning the applicability to nonbroadcast rights of Section 73.658(j)(1)(ii), the financial interest rule, is considered.

Broadcast—2—*Title:* Petitions for reconsideration of the Commission's interim processing policy for TV translator applications, filed by Neighborhood TV Company and a group of broadcast licensees. *Summary:* The Commission considers two petitions for reconsideration of its interim processing policy for TV translator applications during the pendency of the low power television rule making, filed by the above-listed parties.

Broadcast—3—*Title:* Revision of application processing procedures. *Summary:* The Commission will consider revision of its procedures in order to expedite the processing of broadcast applications.

Broadcast—4—*Title:* Docket No. 21474—Revision of EEO program for FCC Form 301 construction permit applicants. *Summary:* The Commission will consider whether to adopt a revised EEO program for FCC Form 301 construction permit applicants, and whether to delete the EEO update requirements for FCC Form 301 major change applicants.

Broadcast—5—*Title:* Revision of FCC Form 301. *Summary:* The Commission will consider revision to the application for construction permit for a commercial broadcast station.

Broadcast—6—*Title:* STA request of Miami Valley Broadcasting Corporation, licensee of AM Station WIOD, Miami, Florida. *Summary:* The FCC considers the STA request of Station WIOD, Miami, Florida for an increase in power to offset Cuban-caused interference.

Broadcast—7—*Title:* Amendment of Sections 73.681 and 73.682(a) of the Commissions Rules to authorize teletext transmissions by television stations. *Summary:* The FCC will consider whether to adopt a combined Notice of Proposed Rule Making and Notice of Inquiry to consider the possible authorization of teletext service. The action will also consider Petitions for Rule Making submitted by CBS, Inc. (RM–3727) and the United Kingdom Industry Group (RM–3876) that request the FCC to adopt standards for teletext.

Broadcast—8—*Title:* Processing of noncommercial, educational FM station applications. *Summary:* The Commission will consider five alternatives in the processing of noncommercial, educational FM station applications pending the resolution of the FM-to-TV Channel 6 interference problem in Docket 20735.

Broadcast—9—*Title:* Elimination of harmful interference to radio communications involving safety to life and protection of property. *Summary:* The Commission will consider the adoption of a Notice of Proposed Rule Making proposing an amendment to Part 74 of the Commission's Rules to eliminate radio interference which jeopardizes safety to life and protection of property.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 10, 1981.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–920–81 Filed 6–10–81; 3:31 pm]

BILLING CODE 6712–01–M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 3047, Monday, June 8, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, June 11, 1981.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting.

Service Corporation Application—Alaska Federal Savings & Loan Association of Juneau, Juneau, Alaska

No. 501, June 10, 1981.

[S–921–81 Filed 6–10–81; 3:49 pm]

BILLING CODE 6720–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

June 3, 1981.

TIME AND DATE: 10 a.m., Wednesday, June 10, 1981.

PLACE: Room 600, 1730 K Street, NW, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of Bobby Gooslin v. Kentucky Carbon Corporation, Docket No. KENT 80–145–D. (Issues relate to nature and scope of temporary reinstatement hearing provisions of Commission Rule 44.)

2. Hanna Mining Company, Docket No. LAKE 79–103–M, etc. (Issues include interpretation and application of 30 CFR §§ 55.9–54, 55.11–1, 55.11–12, and 55.11–16.)

3. Capitol Aggregates, Inc., Docket No. DENV 79–163–PM, etc. (Issues include interpretation and application of 30 CFR § 56.17–1.)

4. Solar Fuel Company, Docket No. PENN 79–142. (Issues include interpretation and application of 30 CFR § 75.503.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–915–81 Filed 6–10–81; 1:43 am]

BILLING CODE 6820–12–M

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FEDERAL RESERVE SYSTEM.

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, June 17, 1981.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposal to survey commercial banks concerning small business lending.
2. Proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) to permit the issuance of travelers checks by bank holding companies.

Discussion Agenda:

3. Further consideration of the regulatory review of the margin credit regulations.
4. Request by the Commodity Futures Trading Commission for comment on proposals to trade futures contracts for the delivery of Eurodollars.
5. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 10, 1981.

James McAffee,

Assistant Secretary of the Board.

[S-914-81 Filed 6-10-81; 10:53 am]

BILLING CODE 6210-01-M

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[USITC SE-81-17]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, June 23, 1981.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Any items left over from previous agenda:
   a. Wood stoves (Docket No. 731).
   b. Certain Coin-Operated, Audio-Visual Camera II (Docket No. 725).
5. Certain Headboxes and Papermaking Machine Forming Sections for the Continuous Production of Paper, and Components Thereof (Inv. 337–TA–82)—discussion of possible action in light of President's letter dated June 8, 1981.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S-917-81 Filed 6-10-81; 2:04 pm]

BILLING CODE 7020-02-M

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SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 15, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, June 16, 1981, at 2:30 p.m. and on Thursday, June 18, 1981, following the 2:30 p.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. 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 meetings 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) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis and Evans determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 16, 1981, at 2:30 p.m., will be:

Order in administrative proceeding of an enforcement nature.
Formal order of investigation.
Chapter X proceedings.
Consideration of *amicus* participation.
Freedom of Information Act appeals.
Settlement of injunctive action.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Regulatory matter bearing enforcement implications.

The subject matter of the closed meeting schedule for Thursday, June 18, 1981, following the 2:30 open meeting, will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Report of investigation.
Institution of administrative proceeding of an enforcement nature.
Litigation matter.
Institution of injunctive action.

The subject matter of the open meeting scheduled for Thursday, June 18, 1981, at 2:30 p.m., will be:

1. Consideration of whether to authorize transmittal to the Senate Committee on Banking, Housing and Urban Affairs of a letter providing the Commission's comments on S. 610, the "State and local Government Accounting and Financial Reporting Standards Act of 1981." The issues to be considered will include whether to express support for S. 610 as a significant step in ensuring adequate disclosure by state and local governments; and whether to express the opinion that the bill leaves open important issues that the Committee may wish to consider further, either in the context of this bill or in the future. For further information, please contact Alan Rosenblat at (202) 272–2428.
2. Consideration of whether to authorize the transmission of a voluntary survey questionnaire to Form 146 filers. For further information, please contact Hugh R. Haworth at (202) 523–5629.
3. Consideration of whether to release two survey questionnaires: (1) to discount broker-dealers and (2) to full-service firms. For further information, please contact Terry M. Chuppe at (202) 523–5623.
4. Consideration of the Tenth Annual Report of the Securities Investor Protection Corporation ("SIPC"). Pursuant to the Securities Investor Protection Act of 1970, SIPC has submitted its Annual Report to the Commission which, in turn, is required to transmit the report to the President and Congress with such comment as the Commission deems appropriate. For further information, please contact Dan W. Schneider at (202) 272–3115.
5. Consideration of whether to propose amendments to the exemptive regulations for the securities of the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian Development Bank. For further information, please contact Ronald Adee at (202) 272–3250.
6. Consideration of an application by Municipal Fund for Temporary Investment, Inc., for an order of the Commission granting exemptions from the provisions of Sections 2(a)(41) and 12(d)(3) of the Investment Company Act of 1940 and Rules 2a–4 and 22c–1 thereunder to permit it to acquire puts on its portfolio securities from brokers, dealers and banks. For further information, please contact W. Randolph Thompson at (202) 272–3016.

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.

June 9, 1981.

[S-916-81 Filed 6-10-81; 1:49 pm]

BILLING CODE 8010-01-M

federal register

Friday
June 12, 1981

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

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 thier dates of publication in the **Federal Register** are listed with each State.

Alaska:	
AK81-5110	Apr. 10, 1981.
Arizona:	
AZ81-5124	May 29, 1981.
District of Columbia:	
DC81-3040	June 5, 1981.
Delaware:	
DE81-3028	May 8, 1981.
Florida:	
FL81-1217	May 1, 1981.
Georgia:	
GA80-1062	Mar. 21, 1980.
GA81-1191	Mar. 6, 1981.
GA81-1192	Mar. 6, 1981.
GA81-1193	Mar. 6, 1981.
GA81-1194	Mar. 6, 1981.
Kansas:	
MO81-4035	May 22, 1981.
Kentucky:	
KY80-1089	Aug. 15, 1980.
KY80-1098	Aug. 22, 1980.
KY80-1093	Aug. 22, 1980.
KY80-1095	Aug. 22, 1980.
KY80-1094	Aug. 22, 1980.
KY80-1097	Aug. 22, 1980.
KY80-1096	Aug. 22, 1980.
KY80-1090	Aug. 22, 1980.
KY80-1101	Aug. 29, 1980.
Maryland:	
DC81-3040	June 5, 1981.
Massachusetts:	
MA80-3064	Oct. 31, 1980.
Missouri:	
MO81-4034	May 22, 1981.
MO81-4035	May 22, 1981.
Montana:	
MT81-5114	May 8, 1981.
MT81-5115	May 8, 1981.
MT81-5116	May 8, 1981.
New York:	
NY80-3054	Sept. 5, 1980.
Pennsylvania:	
PA80-3055	Oct. 3, 1980.
Rhode Island:	
RI80-2054	July 18, 1980.
South Carolina:	
SC79-1016	Feb. 2, 1979.
SC79-1020	Feb. 2, 1979.
SC79-1037	Mar. 9, 1979.
SC79-1038	Feb. 23, 1979.
SC79-1047	Mar. 16, 1979.
SC79-1048	Mar. 16, 1979.
SC79-1062	Apr. 6, 1979.
SC81-1150	Dec. 30, 1980.
Tennessee:	
KY80-1098	Aug. 22, 1980.

Virginia:
DC81-3040 ..... June 5, 1981.
VA81-3015 ..... Mar. 6, 1981.
Washington:
WA81-5107 ..... Apr. 3, 1981.

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:
AL81-1122(AL81-1248) ..... Dec. 30, 1980.
Florida:
FL79-1019(FL81-1246) ..... Feb. 2, 1979.
FL79-1039(FL81-1247) ..... Feb. 16, 1979.
Mississippi:
MS81-1172(MS81-1244) ..... Jan. 30, 1981.
New York:
NY80-3022(NY81-3039) ..... Apr. 4, 1980.
North Carolina:
NC81-1151(NC81-1245) ..... Dec. 30, 1980.
Tennessee:
TN77-1137(TN81-1243) ..... Nov. 25, 1977.
Virginia:
VA80-3065(VA81-3037) ..... Oct. 31, 1980.
VA80-3066(VA81-3036) ..... Oct. 31, 1980.
VA80-3067(VA81-3035) ..... Oct. 31, 1980.

Cancellation of General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determination:

CT81-3014—Hartford County, Connecticut, dated February 27, 1981 in 46 FR 14632—Residential Construction.

Signed at Washington, D.C., this 5th day of June 1981.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 1

DECISION NUMBER AK81-5110 Mod. #4
(46 FR 21526 - April 10, 1981)

STATEWIDE, ALASKA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DELETE:					
Survey Crews:					
Party Chief	$17.59	1.99	3.00		.20
Instrumentman	16.35	1.99	3.00		.20
Head Chainman	15.80	1.99	3.00		.20
Stakehop	15.80	1.99	3.00		.20
Rear Chainman	15.12	1.99	3.00		.20
CHANGE:					
Painters					
Areas 2 and 3					
Residential Painters	12.21	1.10	2.00		.25

Modification Page 2

DECISION NO. AZ81-5124 - Mod. #1
(45 FR-29160 May 29, 1981)

Statewide, Arizona	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Northern Area:					
Carpenters; Drywall Applicator; Saw Filer; Shingler	$15.06	$1.335	$1.115		.08
Floorlayers (finish); Piledrivermen	15.405	1.335	1.115		.08
Millwrights	15.565	1.335	1.115		.08
Central and Southern Areas:					
Carpenters; Saw Filers	12.935	1.335	1.115		.08
Floorlayers (finish); Piledrivermen	13.28	1.335	1.115		.08
Millwrights	13.44	1.335	1.115		.08
Cement Masons:					
Zone 1:					
Northern Area:					
Cement Masons Concrete Troweling machine; Sawing and Scoring Machine; Curb and Gutter Machine	15.035	.95	1.40		.05
	15.225	.95	1.40		.05
Central and Southern Areas:					
Cement Masons Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine	12.91	.95	1.40		.05
	13.10	.95	1.40		.05
Zone 2:					
Cement Masons Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine; Clary and similar type of power Screed Operator	12.84	1.12	1.30		.05
	13.03	1.12	1.30		.05
Glaziers					
Statewide, excluding Bullhead City	14.79	.95	.60		.08

DECISION NO. AZ81-5124 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Lathers:					
Area 1	$14.325	$1.00			.06
Marble Workers:					
Area 1	13.06	.90	1.10		.19
Mason Tenders	11.00	1.12	1.30		.06
Roofers:					
Area 1	13.46	1.095	.95		.05
Terrazzo Workers; Tile Setters:					
Area 1	13.06	.90	1.10		.19

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
	N AREA	C and S AREAS				
Laborers:						
Group 1	$12.275	$10.15	$1.12	$1.30		.10
Group 2	12.435	10.31	1.12	1.30		.10
Group 3	12.605	10.48	1.12	1.30		.10
Group 4	12.735	10.61	1.12	1.30		.10
Group 5	12.945	10.82	1.12	1.30		.10
Group 6	13.41	11.285	1.12	1.30		.10
Group 7	14.18	12.055	1.12	1.30		.10
Tunnel and Shaft Work:						
Group 1	12.57	10.445	1.12	1.30		.10
Group 2	12.775	10.65	1.12	1.30		.10
Group 3	12.935	10.81	1.12	1.30		.10
Group 4	13.365	11.24	1.12	1.30		.10
Group 5	13.60	11.475	1.12	1.30		.10
Group 5A	13.90	11.775	1.12	1.30		.10

DECISION NO. AZ81-5124 (Cont'd)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and or Appr. Tr.
	N AREA	C and S AREAS				
Power Equipment Operators: (Except Piledriving and Steel Erection):						
Group 1	$12.875	$10.75	$1.40	$1.30		.08
Group 2	13.335	11.21	1.40	1.30		.08
Group 3	13.885	11.76	1.40	1.30		.08
Group 4	14.545	12.42	1.40	1.30		.08
Group 5	15.185	13.06	1.40	1.30		.08
Group 5A	15.565	13.44	1.40	1.30		.08
Group 6	15.975	13.85	1.40	1.30		.08
Group 7	16.715	14.59	1.40	1.30		.08
Truck Drivers:						
Group 1	12.445	10.32	1.12	1.30		.10
Group 2	12.605	10.48	1.12	1.30		.10
Group 3	12.875	10.75	1.12	1.30		.10
Group 4	13.305	11.18	1.12	1.30		.10
Group 5	13.495	11.37	1.12	1.30		.10
Group 5A	13.735	11.61	1.12	1.30		.10
Group 6	13.895	11.77	1.12	1.30		.10
Group 7	14.395	12.27	1.12	1.30		.10
Group 8	15.03	12.905	1.12	1.30		.10
Group 8A	15.825	13.70	1.12	1.30		.10
Group 8B	13.135	11.01	1.12	1.30		.10
Group 8C	15.445	13.32	1.12	1.30		.10

Modification Page 5

DECISION NO. DC81-3040 - MOD. #1 - June 5, 1981 DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES, AND D.C. TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
DELETE:					
MARBLE SETTERS' HELPERS	7.35				
TERRAZZO WORKERS' HELPERS	9.95	.70	.70		.04
TILE SETTERS' HELPERS	9.95	.70	.70		
ADD:					
MARBLE, TILE AND TERRAZZO FINISHERS	11.215	.80	1.57		
CHANGE:					
ELECTRICIANS	14.70	.75	3%+.80		.13
IRONWORKERS:					
Structural, ornamental and chain link fence	13.87	1.035	1.24		.16
Reinforcing	13.71	.95	1.25		.07
(DISTRICT OF COLUMBIA ONLY)					
PAVING AND INCIDENTAL GRADING					
CEMENT MASONS	8.98	.35	.40		
LABORERS:					
Sand setter	8.98	.35	.40		
Asphalt raker	8.69	.35	.40		
Jack hammer	8.64	.35	.40		
Asphalt tamper	8.58	.35	.40		
Hand burner operator	8.58	.35	.40		
Concrete shoveler	8.58	.35	.40		
Asphalt shoveler	8.46	.35	.40		
Laborer	8.41	.35	.40		
Burner planer operator	8.92	.35	.40		
Form setter	8.98	.35	.40		
Concrete saw operator	8.69	.35	.40		

Modification Page 6

DECISION NO. DC81-3040 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor Rubbertired Loader (1-½ cu yds., or less), Asphalt Plant Mixer	8.69	.35	.40		
Loader Operator Tracks (2-½ cu. yds. or less), Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	8.92	.35	.40		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	8.98	.35	.40		
Crane Operator, Concrete Paving Operator	9.15	.35	.40		
Shovel Operator	9.27	.35	.40		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Operator Tracks over 2-½ cu. yds.	10.01	.35	.40		
G-1000 Gradall Operator (over 1½ cu. yds.)	10.30	.35	.40		
Power Broom, Oiler	8.58	.35	.40		
Sand Setter	8.98	.35	.40		
TRUCK DRIVERS:					
Truck drivers (standard)	8.41	.35	.40		
Tandem	8.54	.35	.40		
Tractor trailer (capable of moving heavy equipment	8.98	.35	.40		

DECISION NO. DE81-3028 - MOD. #1 (46 FR 25909 - May 8, 1981) State of Delaware	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION: (Railroad only)					
Linemen	12.34	.60	3%	d	.75%
"A" Equipment Operator	12.34	.60	3%	d	.75%
"B" Equipment Operator	10.78	.60	3%	d	.75%
POWER EQUIPMENT OPERATORS: Building & Highway Construction:					
Group 1	14.27	10%	10.3%	h	1.3%
Group 2	13.98	10%	10.3%	h	1.3%
Group 3	13.11	10%	10.3%	h	1.3%
Group 4	12.34	10%	10.3%	h	1.3%
Group 5	11.87	10%	10.3%	h	1.3%
Group 6	10.96	10%	10.3%	h	1.3%
Group 7					
100' & over	14.52	10%	10.3%	h	1.3%
150' & over	14.77	10%	10.3%	h	1.3%
200 & Over	15.40	10%	10.3%	h	1.3%
DECISION NO. FL81-1217 - MOD. #1 (46 FR 24816, May 1, 1981) Baker, Bradford, Clay, Columbia, Duval, Flagler, Nassau, Putnam, & St. Johns Counties, Florida					
ADD: Union County					

DECISION #GA80-1062 - Mod. #2 (45 FR 18652 - March 21, 1980) Bibb County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$12.90	1.375	1.20		.04
DECISION #GA81-1191 - Mod. #2 (46 FR 15645 - March 6, 1981) Clayton, DeKalb, & Fulton Counties, Georgia					
CHANGE:					
Boilermakers	$12.90	1.375	1.20		.04
Marble, Tile, & Terrazzo finishers	8.70	.35	.10		.05
Sprinkler fitters	13.69	.95	1.40		.08
DECISION #GA81-1192 - Mod. #2 (46 FR 15647 - March 6, 1981) Richmond County, Georgia					
CHANGE:					
Boilermakers	$12.90	1.375	1.20		.04
Sprinkler fitters	13.69	.95	1.40		.08
DECISION #GA81-1193 - Mod. #2 (46 FR 15648 - March 6, 1981) Chatham County, Georgia					
CHANGE:					
Boilermakers	$12.90	1.375	1.20		.04
Sprinkler fitters	13.69	.95	1.40		.08

DECISION #GA81-1194 - Mod. #1 (46 FR 15650 - March 6, 1981) Houston County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers	$12.90	1.375	1.20		.04
DECISION NO. KY80-1089 - MOD. #5 (45 FR 54613, August 15, 1980) Warren County, Kentucky					
Change:					
Carpenters:					
Carpenters & Lathers	11.90	.80	.80		.05
Piledrivermen	12.15	.80	.80		.05
Electricians & Cable Splicers	12.95	.55	3%		1%
Line Construction:					
Linemen, Line Truck, Hole Digger, & Cable Splicers	12.95	.55	3%		½ of 1%
Groundmen - Truck Drivers with Winch	11.01	.55	3%		½ of 1%
Groundmen - Truck Drivers	10.36	.55	3%		½ of 1%
Sheet Metal Workers	14.58	1.619	1.61		.16
Sprinkler Fitters	15.31	.95	1.40		.08
DECISION NO. KY80-1098 - MOD. #4 (45 FR 56285 - August 22, 1980) Fort Campbell (located in Christian County, Ky. & Montgomery County, Tn.)					
Change:					
Electricians:					
Wiremen (Kentucky Portion)	13.75	.50	13%		½ of 1%
Cable Splicers (Kentucky Portion)	14.00	.50	13%		½ of 1%
Sprinkler Fitters					
Kentucky Portion	15.31	.95	1.40		.08
Tennessee Portion	13.69	.95	1.40		.08

DECISION NO. KY80-1093 - MOD. #4 (45 FR 56287-56290, August 22,1980) Boone, Campell, Kenton & Pendleton Counties, Ky.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	16.36	.75	1.25		.02
Bricklayers & Stonemasons	16.445	.80	.45		.02
Carpenters & Piledrivermen	15.80	.90	1.10		.075
Ironworkers					
Reinforcing	15.83	1.00	1.60		.02
Structural & Ornamental	15.28	1.00	1.60		.02
Laborers:					
Boone, Campbell & Kenton					
Group A	13.70	.95	.90		.05
Group B	13.80	.95	.90		.05
Group C	13.85	.95	.90		.05
Group D	13.90	.95	.90		.05
Group E	14.05	.95	.90		.05
Group F	14.20	.95	.90		.05
Group G	14.45	.95	.90		.05
Marble Setters	16.275	.80	.45		
Marble Setter Finishers	14.75				
Millwrights	16.44	.60	1.10		.10
Plasterers	16.395		1.00		.02
Plumbers & Gasfitters	16.57	1.25	1.50		.07
Roofers	16.67		1.50		.02
Sheet Metal Workers					
Pendleton County	14.58	1.619	1.61		.16
Remaining Counties	16.94	1.18	.86		.08
Sprinkler Fitters	15.31	.95	1.40		.08
Tile & Terrazo Workers	16.235	.80	.45		
Tile & Terrazo Finishers	14.75				

DECISION NO. KY80-1095 - MOD. #4 (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:					
Asbestos Workers	17.40	.60	1.10		.03
Boilermakers	12.50	1.275	1.20	2.00	.04
Bricklayers & Stonemasons	14.41	.45	.50		
Ironworkers	15.96	1.00	1.85		.01
Laborers:					
Group 1	11.20	.45	.80		
Group 2	11.35	.45	.80		
Group 3	11.37	.45	.80		
Group 4	11.40	.45	.80		
Group 5	11.45	.45	.80		
Group 6	11.70	.45	.80		
Group 7	11.90	.45	.80		
Group 8	12.40	.45	.80		
Painters:					
Brush & Paperhanging, Roller, Drywall, Saping, Spray, Steamcleaning, Mittens or Rags, Sandblasting, Drywall Machine Operator	12.20	.80	1.50		.06
Plumbers & Pipefitters					
Area 1	14.53	1.00	2.00	1.00	
Area 2	14.73	1.00	2.00	1.00	
Area 3	14.93	1.00	2.00	1.00	
Area 4	15.03	1.00	2.00	1.00	
Sprinkler Fitters	15.31	.95	1.40		.08
Add:					
Marble, Tile & Terrazo Finishers	10.60				

DECISION NO. KY80-1094 - MOD. #5 (45 FR 46278-46280 - August 22, 1980) Henderson County, Ky.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
Glaziers	13.085	.80	1.00	.25	.01
Plumbers & Pipefitters	16.58	.85	1.15		.05
Sprinkler Fitters	15.31	.95	1.40		.08

DECISION NO. KY80-1097 - MOD. #5 (45 FR 56274 - 56275 - August 22, 1980) Fayette County, Kentucky					
Change:					
Ironworkers	13.45	1.00	2.85		.10
Sprinkler Fitters	15.31	.95	1.40		.08
Add:					
Marble, Tile & Terrazo Finishers	10.60				

DECISION NO. KY80-1096 - MOD. #5 (45 FR 56283-56285 - August 22, 1980) Franklin County, Kentucky					
Change:					
Ironworkers	13.45	1.00	2.85		.10
Sprinkler Fitters	15.31	.95	1.40		.08
Add:					
Marble, Tile & Terrazo Finishers	10.60				

DECISION NO. KY80-1090 - MOD. #5 (45 FR 56280-56283 - August 22, 1980) Hardin, Jefferson & Meade Counties, Kentucky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
Bricklayers & Stonemasons	13.84	.75	.75		.01
Carpenters					
Carpenters & Lathers	13.35	.80	.80		.05
Piledrivermen	13.60	.80	.80		.05
Cement Masons	12.64	1.00	1.00		.08
Ironworkers	13.45	1.00	2.85		.10
Sprinkler Fitters	15.31	.95	1.40		.08
Soft Floor Layers	13.35	.80	.80		.05
DECISION NO. KY80-1101 - MOD. #5 (45 FR 57919-57921 - August 29, 1980) McCracken County, Kentucky					
Change:					
Electricians					
Wiremen	13.75	.50	13%		½ of 1%
Cable Splicers	14.00	.50	13%		½ of 1%
Glaziers	13.085	.80	1.00	.25	.01
Line Construction					
Linemen & Equipment Operators	13.65	.70	13%		½ of 1%
Cable Splicers	13.90	.70	13%		½ of 1%
Groundmen Truck Drivers	10.24	.70	13%		½ of 1%
Groundmen	9.96	.70	13%		½ of 1%
Sprinkler Fitters	15.31	.95	1.40		.08

DECISION NO. MA80-3064 - MOD. #2 (45 FR 72442 - October 31, 1980) Barnstable, Bristol, Dukes, Essex, Middlesex, Norfolk, Plymouth, Suffolk and Nantucket Counties, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
MIDDLESEX (Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, Wilmington)	12.35	1.15	1.15+3%		.02
MIDDLESEX (Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley, Townsend)	13.20	.75	1.35+3%		.02
BRISTOL (Attleboro, N. Attleboro); NORFOLK (Plainville)	13.85	.73	2.05+3%		.02
NORFOLK (Avon, Holbrook, Randolph, Stoughton); PLYMOUTH (Remainder of County); BRISTOL (Easton)					
Electricial Contracts over $75,000	13.63	.82	.82+3%		½%
Electrical Contracts under $75,000	10.22	.61	.61+3%		½%
GLAZIERS:					
SUFFOLK; MIDDLESEX; NORFOLK; ESSEX; PLYMOUTH (all except Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester, Wareham); DUKES; NANTUCKET	13.70	.92	1.19		.03

DECISION NO. MA80-3064 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
IRONWORKERS:					
BRISTOL (except Easton); BARSTABLE: PLYMOUTH (Lakeville, Middleboro, Rochester, Wareham, Marion, Mattapoisett); NORFOLK (Plainville); DUKES; NANTUCKET	12.13	1.15	2.55		.05
MIDDLESEX (Ashby, Shirley, Ayer, Boxboro, Stow, Hudson, Marlboro, Ashland, Hopkinton, Holliston)	13.25	1.15	2.05		.10
ESSEX (Remainder of County); MIDDLESEX (Remainder of County)	12.54	1.15	2.80		.06
MARBLE, TILE & TERRAZZO WORKERS	11.40	.85	1.50		
PAINTERS:					
BARNSTABLE, PLYMOUTH (Marion, Mattapoisett, Rochester, Wareham); BRISTOL (Acushnet, Dartmouth, Fairhaven, New Bedford, N. & S. Dartmouth); DUKES; NANTUCKET					
Brush/Roller	11.63	.90	.85		
Taping	11.73	.90	.85		
Spray	12.98	.90	.85		
Sandblast, Chipping Hammer, Power Brush	13.13	.90	.85		
Paperhangers, Vinyl Installer	12.13	.90	.85		
Steel	14.88	.90	.85		
Steel Spray	16.23	.90	.85		
Sandblast, Chipping Hammers, Power Tools (Steel)	16.38	.90	.85		

DECISION NO: MA80-3064 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PLUMBERS AND STEAMFITTERS:					
BARNSTABLE; BRISTOL, (Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. & S. Dartmouth, Somerset, Swandea, Westport, and Seekonk) PLYMOUTH (Marion, Mattapoisett, Rochester, and Wareham); DUKES, NANTUCKET	12.89	1.05	1.88		.20
Residential	11.60	1.05	1.88		.20
MIDDLESEX (Ashby, Townsend, Groton, Shirley, Ft. Devens, Ayer-West of Greenville Branch of The Boston and Maine RR)	11.71	.90	.90	.47	.05
PLUMBERS AND PIPEFITTERS:					
MIDDLESEX (Acton, Ayer - except West of Greenville Branch of the Boston and Maine RR, Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford and Wilmington)	13.72	1.10	1.10		.02
SUFFOLK, MIDDLESEX (Remainder of Co.); NORFOLK (except Avon, Holbrook, Randolph, Stoughton, Dover, Medfield, Medway, Wellesley) ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); PLYMOUTH (Hingham, Hull, Scituate,					

DECISION NO. MA80-3064 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Plumbers	16.65	1.02	2.73		.08
Pipefitters	15.61	.94	1.45		.07
PLUMBERS, PIPEFITTERS AND STEAMFITTERS:					
ESSEX (Methuen, Lawrence, Groveland, Georgetown, Andover, North Andover)	14.05	1.12	1.50		.10
BSSEX (Remainder of Co.)	13.40	1.65	.87		.05
ROOFERS:					
BARNSTABLE CO., PLYMOUTH (Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham and Hingham); BRISTOL (Seekonk, Reho-both, Dighton, Berkley, Swansea, Somerset, Fall River, Freetown, West-port, Dartmouth, New Bed-ford, Achushnet, Fair-ham); DUKES; NANTUCKET	10.45	1.00	.55		
SUFFOLK, MIDDLESEX, NOR-FORK, ESSEX (Remainder of Co.); BRISTOL (Remainder of Co.)					
Journeyman	13.25	.70	1.85		.17
Pitch Work	14.25	.70	1.85		.17
SUFFOLK, MIDDLESEX, NOR-FOLK, ESSEX, PLYMOUTH (Remainder of County); BRISTOL (Remainder of County)	14.62	1.16	1.95		.10
SPRINKLER FITTERS	16.30	.85	1.20		.06
TILE AND MARBLE FINISHERS	10.34	.90	.75		

DECISION #M081-4034 - Mod. #1 (46 FR 28102 - May 22, 1981) STATEWIDE, MISSOURI	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
Power Equipment Operators:					
Zone 1					
Group I	$13.10	1.05	1.25	1.05	.15
Group II	12.85	1.05	1.25	1.05	.15
Group III	12.15	1.05	1.25	1.05	.15
Group IV					
(a)	9.03	1.05	1.25	1.05	.15
(b)	11.15	1.05	1.25	1.05	.15
Group V	13.35	1.05	1.25	1.05	.15
Group VI	13.10	1.05	1.25	1.05	.15
Zone 5					
Group I	13.10	1.05	1.25	1.05	.15
Group II	12.85	1.05	1.25	1.05	.15
Group III	12.15	1.05	1.25	1.05	.15
Group IV					
(a)	9.03	1.05	1.25	1.05	.15
(b)	11.15	1.05	1.25	1.05	.15
Group V	13.35	1.05	1.25	1.05	.15
Group VI	13.10	1.05	1.25	1.05	.15
Zone 6					
Group I	12.60	1.05	1.25	1.05	.15
Group II	12.25	1.05	1.25	1.05	.15
Group III	12.05	1.05	1.25	1.05	.15
Group IV	10.25	1.05	1.25	1.05	.15
Group V	12.85	1.05	1.25	1.05	.15
Group VI	13.10	1.05	1.25	1.05	.15
Group VII	13.35	1.05	1.25	1.05	.15
Truck Drivers:					
Area covered by Truck Drivers Zones					
Zone 1 - Clay, Jackson, Platte & Ray Counties					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO81-4035 - Mod. #1 (46 FR 28117 - May 22, 1981) Cass, Clay, Jackson, Platte, Henry, Johnson, Lafayette, and Ray Cointies, Missouri; Johnson and Wyandotte Counties, Kansas					
Change:					
Power Equipment Operators:					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
Group I	$13.10	1.05	1.25	1.05	.15
Group II	12.85	1.05	1.25	1.05	.15
Group III	12.15	1.05	1.25	1.05	.15
Group IV					
(a)	9.03	1.05	1.25	1.05	.15
(b)	11.15	1.05	1.25	1.05	.15
Group V	13.35	1.05	1.25	1.05	.15
Group VI	13.10	1.05	1.25	1.05	.15

DECISION NO. MT81-5114 Mod. #1
(46 FR 25925 - May 8, 1981)

STATEWIDE, MONTANA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Laborers					
Group 1					
Flagmen and Scalemen	$10.50	.75	.65	.30	.05
CHANGE:					
Electricians					
Area 8					
Electricians	13.70	.70	3%+.50		1/2%
Cable Splicers	15.79	.70	3%+.50		1/2%
Area 2					
Electricians	16.30	.70	3%+.75		1/2%
Cable Splicers	16.75	.70	3%+.75		1/2%
Area 9					
Electricians	13.40	.70	3%+.50		1/2%
Cable Splicers	14.07	.70	3%+.50		1/2%
Painters					
Area 1 (Jurisdictional Area Only)					
The entire counties of Beaverhead, Gallatin, Park, and Silver Bow. The Northern portion of Jefferson County from a line running East and West (5) miles south of the Southern city limits of Boulder, Montana; The south part of Jefferson Co. from a line running due west from the south limits of Tosten, Montana; the Southern portion of Lewis & Clark Co. from a line running east and west through the southern limits of Craig, Montana; the Southern portion of Powell Co. from a line running east and west through the Southern limits of Helmsville, Montana; the west part of Madison County from a line running north and south through the west limits of Harrison, Montana.					
Ironworkers					
Area 2	15.36	.93	1.90		.10

DECISION NO. MT81-5114 continued

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Painters					
Area					
Brush, Roller; Floor Layers	$11.56	.78	.50		.10
Brush, Roller on steel and roofs, Pot Tender; Paperhanger	10.91	.78	.50		.10
Perfataper (hand tools)	11.66	.78	.50		.10
Spray (not steel)	12.54	.78	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	12.79	.78	.50		.10
Perfataper (machine tools)	12.06	.78	.50		.10

DECISION NO. MT81-5115 Mod. #1
(46 FR 25934 - May 8, 1981)

STATEWIDE, MONTANA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Electricians					
Area 8					
Electricians	$13.70	.70	3%+.50		1/2%
Cable Splicers	15.79	.70	3%+.50		1/2%
Area 2					
Electricians	16.30	.70	3%+.75		1/2%
Cable Splicers	16.75	.70	3%+.75		1/2%
Area 9					
Electricians	13.40	.70	3%+.50		1/2%
Cable Splicers	14.07	.70	3%+.50		1/2%
Painters					
Area 4 (Jurisdictional Area Only)					
The entire counties of Beaverhead, Gallatin, Park, and Silver Bow. The northern portion of Jefferson Co. from a line running east and west five (5) miles south of the Southern city limits of Boulder, Montana; the south part of Jefferson Co. from a line running due west from the south limits of Tosten, Montana; the southern portion of Lewis & Clark Co. from a line running east and west through the southern limits of Craig, Montana; the southern portion of Powell Co. from a line running east and west through the southern city limits of Helmsville, Montana; the west part of Madison Co. from a line running north and south through the west limits of Harrison, Montana.					
Painters					
Area 1					
Brush , Roller; Floor Layers	11.56	.78	.50		.10
Brush, Roller on steel and roofs, Pot Tender; Paperhanger	10.91	.78	.50		.10
Perfataper (hand tool)	11.66	.78	.50		.10
Spray (not steel)	12.54	.78	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	12.79	.78	.50		.10
Perfataper (machine tools)	12.06	.78	.50		.10

DECISION NO. MT81-5115 continued

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
OMIT:					
Laborers					
Broadwater (that portion lying south of an east-west line north of the city of Tosten), Gallatin, Madison (that portion lying east of the Gravely Mountain Range), Park, Sweet Grass, and Wheatland Counties:					
Group 1 (Flagmen and Scalemen)	$10.03	.75	.65	.30	.05
Flathead, Glacier National Park, Lincoln, and that area of Lake and Sanders Cos. lying 5 miles north of the 5th parallel:					
Group 1 (Flagmen and Scalemen)	9.90	.70	.60	.20	.05
Carter, Custer, Dawson, Fallon, Powder River, Prairie, and Wibaux Cos.					
Group 1 (Flagmen, Scalemen, and Watchmen)	9.45	.70	.60	.20	.05
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure, and Yellowstone Counties:					
Group 1 (Flagmen, Watchmen, & Scalemen)	9.60	.70	.60	.20	.05

DECISION NO. MT81-5115 continued

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
OMIT:					
Laborers					
Granite, Lake (southern area), Mineral, Missoula, Ravalli and Sanders (southern area) Cos.					
Group 1 (Scalemen, Watchmen, and Flagmen)	9.32	.62	.53		.05
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Pondera, Teton, and Toole Counties:					
Group 1 (Flagmen and Scalemen)	10.50	.75	.65	.30	.05
Blaine, Hill, and Liberty Counties:					
Group 1 (Flagmen and Scalemen)	10.50	.75	.65	.30	.05
Daniels, Garfield, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan, & Valley Counties:					
Group 1 (Scalemen and Flagmen)	10.50	.75	.65	.30	.05
Beaverhead, Deer Lodge, Madison, Powell, Silver Bow, and that portion of Jefferson Co. within the territorial limits of District No. 2:					
Group 1 (Scalemen and Flagmen)	10.16	.75	.65	.30	.05

DECISION NO. MT81-5115 continued

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
OMIT:					
Laborers					
Broadwater, Lewis and Clark, Meagher, north half of Jefferson Co. including the city of Boulder; that portion of Powell County lying east of a north-south line at the west edge of the town of Elliston					
Group 1 (Flagmen and Scalemen)	$10.29	.75	.65	.30	.05
CHANGE:					
Ironworkers					
Area 2	15.36	.93	1.90		.10
Bricklayers;Marble Masons					
Area 2	14.60	1.15	.55		

DECISION NO. MT81-5116 Mod. No. 1
(46 FR 25953 - May 8, 1981)

Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley Counties, Montana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Electricians					
Area 5					
Electricians	$13.70	.70	3%+.50		1/2%
Cable Splicers	15.79	.70	3%+.50		1/2%
OMIT:					
Laborers					
Hill and Valley Counties:					
Group 1 (Flagmen and Scalemen)	10.50	.75	.65	.30	.05
Missoula County:					
Group 1 (Flagmen and Scalemen)	9.32	.62	.53		.05
Cascade and Glacier Cos.:					
Group 1 (Flagmen and Scalemen)	10.50	.75	.65	.30	.05
Gallatin County:					
Group 1 (Flagmen and Scalemen)	10.03	.75	.65	.30	.05
Deer Lodge and Silver Bow Counties:					
Group 1 (Flagmen and Scalemen	10.16	.75	.65	.30	.05
CHANGE:					
Ironworkers					
Area 1	15.36	.93	1.90		.10
Bricklayers; Marble Masons					
Area 4	14.60	1.15	.55		

DECISION NO. NY80-3054 - Mod. #1
(45 FR 59104 - September 5, 1980)
Jefferson County, New York

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
BUILDING CONSTRUCTION					
BRICKLAYERS, CEMENT MASONS, PLASTERERS & TILE SETTERS	14.29	.70	1.00	a	
CARPENTERS					
Millwrights	12.50	.55	.90	b	.005
SPRINKLER FITTERS	15.55	.95	1.40		.08
HEAVY & HIGHWAY CONSTRUCTION					
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS	14.29	.70	1.00	a	
CARPENTERS & PILEDRIVERS	11.82	.60	1.15		.025
CEMENT MASONS	11.65	.70	1.00		
LABORERS					
CLASS A	9.79	.60	1.30	a	
CLASS B	9.99	.60	1.30	a	
CLASS C	10.19	.60	1.30	a	
CLASS D	10.39	.60	1.30	a	
POWER EQUIPMENT OPERATORS					
MASTER MECHANIC	13.79	1.35	1.45	a	.15
GROUP I	12.99	1.35	1.45	a	.15
GROUP II	12.55	1.35	1.45	a	.15
GROUP III	11.31	1.35	1.45	a	.15
GROUP IV	10.21	1.35	1.45	a	.15

DECISION NO. NY80-3054 - Mod. #1 (CONT'D)

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
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	
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. NY80-3054 - Mod. #1 (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. PA80-3055 - MOD. #7 (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:					
CARPENTERS, HEAVY & HIGHWAY	12.97	2.63	1.40	a	.13
CEMENT MASONS, Heavy & HIGHWAY	11.60	2.09	2.60		
LABORERS, HEAVY & HIGHWAY					
Group 1	11.30	.95	.85		
Group 2	11.10	.95	.85		
Group 3	11.00	.95	.85		
Group 4	11.15	.95	.85		
Group 5	10.90	.95	.85		
Group 6	11.55	.95	.85		
Group 7	11.40	.95	.85		
Group 8	11.25	.95	.85		

LABORERS CLASSIFICATIONS

Group 1 - Powdermen, multiple wagon drill operators, underpinning

Group 2 - Finished surface asphalt rakers, jackhammer operators, paving breaker operators, pipelayer or caulker, conduit & duct layers

Group 3 - Other pneumatic tool operators, laborers stripping concrete forms, carrying or handling lumber and other concrete materials, laborers carrying & handling steel and steel mesh, form pinners, tool room men, mortar mixers, concrete pitmen & spaders, grade men, asphalt shovelers, men working in sheeting, men working in shoring, men working in lagging, laborers assisting in the setting of cut stone, granite or artificial stone, hod carriers, scaffold builders, relief joints & approach slabs, all other laborers on construction work, with the exception of workers in compressed air

DECISION NO. PA80-3055 -
CONT'D

LABORERS CLASSIFICATIONS CONT'D

Group 4 - Wagon drill operators

Group 5 - Yard workers: Laborers, scale mixermen, burnermen, feeders, dustmen

Group 6 - Free Air Tunnels: Miners, welders & burners, miners bore driver, blasters, drillers, pneumatic shield operators

Group 7 - Miners' helpers, welders, burner & tugger, form setters, circular caissons

Group 8 - Trackmen, brakemen, groutmen, bottom shaft men, all other men in free air tunnels

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
(Railroad Only)					
Linemen	13.28	.60	3%	b	.75%
"A" Equipment Operator	13.28	.60	3%	b	.75%
"B" Equipment Operator	11.61	.60	3%	b	.75%
POWER EQUIPMENT OPERATORS:					
Building & Heavy Construction:					
Group 1	14.58	10%	10.3%	a	1.3%
Group 2	14.32	10%	10.3%	a	1.3%
Group 3	13.45	10%	10.3%	a	1.3%
Group 4	13.24	10%	10.3%	a	1.3%
Group 5	12.93	10%	10.3%	a	1.3%
Group 6	12.76	10%	10.3%	a	1.3%
Group 7	12.25	10%	10.3%	a	1.3%
Group 8	11.51	10%	10.3%	a	1.3%

DECISION NO. PA80-3055 -

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
HIGHWAY CONSTRUCTION:					
Wage Group 1	14.33	10%	10.3%	c	1.3%
Wage Group 2	14.10	10%	10.3%	c	1.3%
Wage Group 3	13.49	10%	10.3%	c	1.3%
Wage Group 4	12.97	10%	10.3%	c	1.3%
Wage Group 5	12.60	10%	10.3%	c	1.3%
Wage Group 6	12.25	10%	10.3%	c	1.3%
Wage Group 7	11.51	10%	10.3%	c	1.3%
TRUCK DRIVERS:					
Building Construction:					
Class I	10.35	1.0675	1.225	a+b	
Class II	10.45	1.0675	1.225	a+b	
Class III	10.65	1.0675	1.225	a+b	
TRUCK DRIVERS:					
Heavy & Highway Including Site Preparation, Paving & Utilities on Building Construction					
Class I	10.20	1.0675	1.225	a+b	
Class II	10.30	1.0675	1.225	a+b	
Class III	10.50	1.0675	1.225	a+b	

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DECISION NO. RI80-2054 - Mod. #5
(45 FR 48451 - July 18, 1980)
Statewide, Rhode Island

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
BUILDING CONSTRUCTION					
ELECTRICIANS	13.85	.73	3%+2.05		.02
PLUMBERS	13.30	1.03	2.95		.10
TRUCK DRIVERS					
Dump & Two Axle Equipment Drivers	10.64	1.0925	1.10		
Trailers & Three Axle Equipment Drivers	10.72	1.0925	1.10		
Low Bed Trailers 24 Ton Rated Cap. & Over, I Beam Trailers, Specialized Earth Moving Equipment - Euclid Type	10.97	1.0925	1.10		
Euclid Type Equipment over 35 Ton Capacity	11.22	1.0925	1.10		

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DECISION #SC79-1016 - Mod. #4 (44 FR 6888 - February 2, 1979) Beaufort, Colleton, Hampton, & Jasper Counties, South Carolina CHANGE:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Sprinkler fitters	$11.75	.95	1.40		.08
DECISION #SC79-1020 - Mod. #4 (44 FR 6888 - February 2, 1979) Chester, Chesterfield, Fairfield, Kershaw, & Lancaster Counties, South Carolina CHANGE:					
Sprinkler fitters	$11.75	.95	1.40		.08
DECISION #SC79-1037 - Mod. #5 (44 FR 13230 - March 9, 1979) Sumter County, South Carolina CHANGE:					
Sprinkler fitters	$11.75	.95	1.40		.08
DECISION #SC79-1038 - Mod. #4 (44 FR 10934 - February 23, 1979) Cherokee, Union, & York Counties, South Carolina CHANGE:					
Sprinkler fitters	$11.75	.95	1.40		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #SC79-1047 - Mod. #5 (44 FR 16322 - March 16, 1979) Greenville County, South Carolina					
CHANGE:					
Ironworkers	$11.00	.65	.55		.02
Sprinkler fitters	11.75	.95	1.40		.08
DECISION #SC79-1048 - Mod. #4 (44 FR 16295 - March 16, 1979) Spartanburg County, South Carolina					
CHANGE:					
Sprinkler fitters	$11.75	.95	1.40		.08
DECISION #SC79-1062 - Mod. #4 (44 FR 20937 - April 6, 1979) Georgetown & Horry Counties, South Carolina					
CHANGE:					
Asbestos workers	$11.00	.65	.50		.02
Boilermakers	12.90	1.375	1.20		.04
Plumbers & Steam fitters: Georgetown County Only	10.80	.60	.60		
Sprinkler fitters	11.75	.95	1.40		.08
DECISION #SC81-1150 - Mod. #1 (45 FR 86203 - December 30, 1980) Berkeley, Charleston, & Dorchester Counties, South Carolina					
CHANGE:					
Boilermakers	$12.90	1.375	1.20		.04
Sprinkler fitters	11.75	.95	1.40		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA81-3015-Mod. #3 (46 FR 15666-March 6,1981) Radford Army Ammunition Plant, Virginia					
CHANGE:					
ASBESTOS WORKERS	$11.93	.80	1.05		.01
BOILERMAKERS	13.80	1.275	1.30		.04
LABORERS:					
COMMON LABORERS	6.90	.40	.40		.05
MASON TENDERS	7.00	.40	.40		.05
AIR TOOL OPERATORS	7.15	.40	.40		.05
PAINTERS:					
BRUSH	9.25	.50	.45		
SPRAY	9.60	.50	.45		
SHEET METAL WORKERS	12.20	.40	.84		.07
POWER EQUIPMENT OPERATORS:					
BULLDOZER OPERATORS	12.27	.45	.55	a	.03
CRANE OPERATORS	12.27	.45	.55	a	.03

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Labor Day; Independence Day; Thanksgiving Day and Christmas Day provided the employee works the regularly scheduled work day before and after the holiday.

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DECISION NO. WA81-5107 - Mod #7
(46 FR 20432 - April 3, 1981)
Statewide Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Cement Masons:					
Area 2:					
Cement Masons	$16.70	.95	1.50		.10
Composition, Color, Mastic, Trowel Machine, Grinder, Power Tool, Gunnite Nozzleman	16.95	.95	1.50		.10
Mason Tenders:					
Area 1:					
Mason Tenders (Including Tenders of Plasterers, Bricklayers, Tile Setters, Marble Setters, Terrazzo Workers, Topping for Cement Finishers and Mortar Mixers)	14.23	1.10	1.40		.10
Painters:					
Area 3:					
General Painters	15.37	.99	.70		.04
Drywall Tapers	15.77	.99	.70		.04
Industrial Painters	15.77	.99	.70		.04
Sheet Metal Workers:					
Area 1	17.41	3% + .83	1.70		.20
Soft Floor Layers:					
Area 6	12.795	.80	1.05	c	.13

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTIES: Calhoun, [illegible], Cleburne, [illegible]

DECISION NUMBER: AL81-1248 DATE: Date of Publication
Supersedes Decision No.: AL81-1122, December 30, [illegible]
DESCRIPTION OF WORK: Residential construction consisting of 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.
BRICKLAYERS	$8.00				
CARPENTERS	6.50	.30	.20		
CEMENT MASONS	7.50				
DRYWALL FINISHERS	8.15				
DRYWALL HANGERS	7.20				
ELECTRICIANS	9.95	.30	1% + .40		½ of 1%
INSULATORS	4.65				
LABORERS	4.14				
PAINTERS, Brush	6.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	5.00				
Front End Loader	5.00				
PLUMBERS & PIPEFITTERS	8.53	.40	.35		
ROOFERS	5.47				
SHEET METAL WORKERS	5.59				
TILE SETTERS	6.71				
TRUCK DRIVERS	4.14				
WELDERS - Receive rate prescribed for craft to which it is incidental					

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: Florida
DECISION NUMBER: FL81-1246
COUNTY: Duval
DATE: Date of Public...
Supersedes Decision Number FL79-1019, dated February 2,1979 in ... 6852
DESCRIPTION OF WORK: Heavy Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Carpenters & Piledrivermen	11.32	.72	.80		.06
Cement Masons	7.59				
Electricians	12.15	.60	3% + .81	.81	.07
Laborers: Unskilled	7.22	.30	.25		
Plumbers & Pipefitters	12.75	.70	.80		.10
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS					
Cranes	12.18	.55	.50		.06
Oilers	8.80	..55	.50		.06
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: Florida
DECISION NUMBER: FL81-1247
COUNTY: See ...
DATE: Date of Publication
Supersedes Decision No. FL79-1039 dated February 16, ...79 in 44 ... 10228
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments of four stories or less)

Volusia (except Cape Kennedy Space Flight Center and Cape Canaveral Air Force Station, Florida)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Asbestos Workers	12.93	.65	1.10		.08
Boilermakers	12.90	1.375	1.20		.04
Bricklayers	8.40	.50	.20		.05
Carpenters	9.25	.55	.80		.12
Electricians					
Base Zone: (within 40 miles of Daytona Beach)					
Electricians	10.89	.50	3% +.98		.05
Cable Splicers	11.14	.50	3% +.98		.05
Zone I: (all work beyond 40 miles of Daytona Beach and not accessible by public roads - Industrial work in excess of 300,000 electrical or 3,000,000 total permit- power generation plants)					
Electricians	12.47	.50	3% +.98		.05
Cable Splicers	12.72	.50	3% +.98		.05
Elevator Constructors					
Mechanic	11.29	1.195	.95	a + b	.035
Helper	7.90	1.195	.95	a + b	.035
Ironworkers	11.88	.80	.90	.65	.05
Laborers					
Air Tool Operators, Mason Tenders, Mortar Mixers, Pipelayers (concrete & clay), Plasterers' Tenders	7.05	.25	.10		
Unskilled Laborers	6.99	.25	.10		
Lathers	8.88	.35	.25		.15
Marble Setters	8.40	.50	.20		.05
Millwrights	12.67	.70	.70		.10

FL81-1247 cont.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Piledrivermen	9.75	.55	.80		.12
Painters:					
Brush & Roller	8.95	.50	.45		.06
Paperhangers, Sandblasters & Spray	9.45	.50	.45		.06
Plumbers, Pipefitters & Steamfitters					
Commercial	11.45	.60	.60		.05
Industrial	14.40	.88	.89		.05
Roofers					
Roofers	9.50	.35	.25		
Kettlemen	8.05	.35	.25		
Sheet Metal Workers	10.96	3% +.55	.44		.08
Soft Floor Layers	9.25	.55	.80		.12
Sprinkler Fitters	12.65	.85	1.20		.13
Tile & Terrazo Workers	8.40	.50	.20		.05
Welders - Rate for craft					

FOOTNOTES

a. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day & Christmas Day

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than five years, 6% of regular hourly rate for employee who has worked in business less than five years

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))

FL81-1247 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
POWER EQUIPMENT OPERATORS:		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP I	$12.18	.55	.50		.06
GROUP II	11.00	.55	.50		.06
GROUP III	8.80	.55	.50		.06

GROUP I - Crane or Derrick Operator, Clam Shell Operator, Drageline Operator, Piledriver Operator including Auger & Boring Machine Operator for Drilling in Piling, Backhoe Operator, Hydra Crane Operator, Grade All Operator, Shovel Operator, Patrol, Cable Ways Operator, Tug Boat Captain (150 H.P. or more) Multi-Bowl Operator (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), Side Boom Cat Operator, Multi-Drum Hoist Operator for Rigging Work, Mechanic (heavy equipment), Tower Crane Operator (stationary, climbing, and traveling), Gantry Crane Operator, Locomotive Crane Operator, Bridge Crane Operator (over 20 ton capacity), Concrete Pump with boom (mobile) Operator, High Lift or Fork Lift Operator (10' or higher), Locomotive Engineer (for job use that does not infringe upon the rights of Railroad Unions)

GROUP II - Bulldozer Operator, Bridge Crane Operator (20 tons & under), Highlift or Forklift Operator (less than 10'), Straddle Buggy Operator, Hoist Operator (other than rigging work) including Winch Truck Operator where Winch Truck is not Mobile and used as a Hoist, Trenching Machine Operator (ladder & wheel type) over 6' cut and over 24" in width, Concrete Paver Operator, Scraper Operator, Front End Loader Operator, Fireman-Floating Equipment, Mobile Winch Truck Operator, Self Propelled Sub-Grader Operator, Asphalt Paving Machine Operator, Lubricating Engineer (mobile plant), Pavement Breaker Operator

GROUP III- Tractor Operated Sweeper Operator, Trenching Machine Operator (ladder and wheel type) maximum cut 6' and maximum width 24", Fireman, Self Propelled Roller Operator, Wellpoint Pump Operator & Supervise Installation (one operator for 3 pumps, not including standby units, within 300 ft radius), Asphalt Distributor Operator, Water Truck Driver, Motor Boat Operator, Oiler, Pumpman (other than wellpoint) up to and including Pumps within 300 ft radius, Conveyors Operator (motor operated), Welding Machine Operator (3 or more combustion type), Pulver Mixer Operator, Compressor Operator (from 1 up to and including 3 compressors within 300 ft. radius, Self propelled sweeper operator, Combination Pump, Compressor & Combustion Type Welding Machine Operator (any group of 3 units) with 300 ft radius, Concrete Mixer Operator, Concrete Pump Operator, Tractor Operator, Street Sweeping Machine Operator.

STATE: MISSISSIPPI COUNTIES: Bolivar, Coahoma, [illegible] and Tunica

DECISION NUMBER: MS81-1244 DATE: Date of Publication

Supersedes Decision No.: MS81-1172, January 30, 1981, 46 FR 10099

DESCRIPTION OF WORK: Building Construction (excluding single family [illegible] and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
AIR CONDITIONING MECHANICS	$7.40				
BRICKLAYERS	8.00				
CARPENTERS	5.50				
CEMENT MASONS	4.95				
ELECTRICIANS	6.50				
IRONWORKERS, Structural & Ornamental	6.00				
LABORERS:					
Unskilled	4.22				
Pipelayers	5.70				
PAINTERS, Brush	4.75				
POWER EQUIPMENT OPERATORS:					
Backhoe	8.00				
Scraper	9.00				
PLUMBERS & PIPEFITTERS	8.15				
ROOFERS	8.00				
SHEET METAL WORKERS	6.96				
SOFT FLOOR LAYERS	5.17				
TRUCK DRIVERS	4.22				
WELDERS - Rate for Craft					

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 clause (29 CFR, 5.5 (a) (1) (ii)).

STATE: NEW YORK COUNTY: MONROE

DECISION NO. NY81-3039 DATE: DATE OF PUBLICATION

Supersedes Decision No. NY80-3022 dated April 4, 1980 in 45 FR [illegible]

DESCRIPTION OF WORK: Building (excluding single family homes and [illegible] ments up to and including 4 stories), Heavy & Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	14.77	1.50	1.15		.01
BOILERMAKERS	14.80	1.275	1.975		.03
BRICKLAYERS, CEMENT MASONS, PLASTERERS & STONE MASONS	13.67	.75	1.00		
CARPENTERS, Building	13.30	1.23	1.56		.05
Millwrights & Piledrivers	12.73	1.23	1.15		.05
CARPENTERS & PILEDRIVERS, Heavy & Highway	11.28	1.23	1.06	a	.025
CEMENT MASONS, Heavy & Highway	11.19	1.00	1.15		
ELECTRICIANS	13.95	1.00	3%+1.40		½%
ELEVATOR CONSTRUCTORS	14.13	1.195	.95	b+c	.035
GLAZIERS	12.73	1.02	.89		.06
IRONWORKERS					
Ornamental, Reinforcing, Stone Derrickmen, Rigger, Rodman, Structural, Machinery Movers, Fence Erectors, Precast Concrete Erector	13.05	1.00	1.05		.10
Sheeter	13.30	1.00	1.05		.10
Sheeter Bucker-up	13.175	1.00	1.05		.10
MARBLE, TILE & TERRAZZO WORKERS	14.36	.50			
MARBLE, TILE & TERRAZZO FINISHERS	9.85	.55	.89		
PAINTERS					
Basic	11.90	1.67	1.04		.10
Wiper drywall	12.10	1.66	1.04		.10
Stilts (drywall only), Epoxy (brush & roll), Wall covering	12.15	1.67	1.04		.10
Swing Scaffold, window brackets, Structural (up to 40'), Cherry pickers mechanical lift, aerial lift	12.40	1.67	1.04		.10
Regular Spray, Water Hydroblasting, Metalizing, Mechanical taper	12.50	1.67	1.04		.10
Spray (epoxy), Structural Steel (over 40')	12.60	1.67	1.04		.10
Sandblasting (from solid platform)	12.65	1.67	1.04		.10
Sandblasting (any hanging platform), Steeple Jack	12.90	1.67	1.04		.10
Bridges	13.15	1.67	1.04		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PLUMBERS & STEAMPITTERS	14.38	2.485	1.22	.32+d	.20
SHEET METAL WORKERS	13.62	.85	1.52		
SOFT FLOOR LAYERS	11.87	.90	.66		
SPRINKLER FITTERS	15.55	.95	1.40		.08
WELDERS - RECEIVE RATE PRESCRIBED FOR CRAFT PERFORMING OPERATION TO WHICH WELDING IS INCIDENTAL					

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:
a. Paid Holidays: C and D
b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6 % basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit
c. Paid Holidays: A through F, and the day after Thanksgiving
d. Paid Holidays A, C, D, E, and F

LABORERS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Common Laborers	9.15	2.10	1.29		
Blasters	10.52	2.10	1.29		
Powder Monkey	10.02	2.10	1.29		
Air Track Drill, Asphalt Rakers & Wagon Drill	9.55	2.10	1.29		
Chuck Tender, all work on hanging or swing scaffold, work at heights outside the building where safety lines or blets are required, & Bosun Chair	9.35	2.10	1.29		
Jackhammers, Paving Breakers, Mortar Mixers, Concrete Vibrators, Barco Tampers, and Jumping Jacks	9.45	2.10	1.29		
Pipelayers, Cutters for wrecking and demolition work, burners	9.45	2.10	1.29		
Concrete Vibrator for Architectural Concrete	9.65	2.10	1.29		
New Chimney work					
From base to 100'	10.15	2.10	1.29		
From 100' to 150'	10.40	2.10	1.29		
From 150' to 200'	10.65	2.10	1.29		
From 200' to 250'	10.90	2.10	1.29		
From 250' up	11.15	2.10	1.29		

LABORERS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS A	8.65	2.10	1.29	a	
CLASS B	8.85	2.10	1.29	a	
CLASS C	9.05	2.10	1.29	a	
CLASS D	9.25	2.10	1.29	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day, provided the employee has worked the day before and after the holiday

CLASSIFICATIONS:

CLASS A: Laborers, drill helpers, flagmen, outboard and hand boats

CLASS B: Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breakers, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborers

CLASS C: All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman

CLASS D: Blasters, form setters, stone or granite curb setters

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
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 Transinission 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	

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

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP I					
I-A	12.46	1.15	1.25	a	.15
I-B	12.71	1.15	1.25	a	.15
I-C	12.96	1.15	1.25	a	.15
I-D	13.21	1.15	1.25	a	.15
I-E	13.71	1.15	1.25	a	.15
I-F	14.21	1.15	1.25	a	.15
I-G	14.71	1.15	1.25	a	.15
I-H	15.21	1.15	1.25	a	.15
GROUP II	12.46	1.15	1.25	a	.15
GROUP III	12.13	1.15	1.25	a	.15
GROUP IV	10.99	1.15	1.25	a	.15
GROUP V	9.05	1.15	1.25	a	.15
GROUP VI	13.06	1.15	1.25	a	.15

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall

CLASSIFICATIONS
GROUP I: Cranes (cable and hydraulic climbing and tower)
I-A - 121 ft. and under
I-B - 121 ft. to 151 ft.
I-C - 151 ft. to 201 ft.
I-D - 201 ft. to 251 ft.
I-E - 251 ft. to 301 ft.
I-F - 301 ft. to 351 ft.
I-G - 351 ft. to 401 ft.
I-H - 401 ft. to 451 ft.
GROUP II: Air tugger, derrick, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15' or more of lift), hoist (on steel erection), mucking machines, ross carrier (and similar types), three drum hoist (when all three drums are in use)
GROUP III: A frame, backfilling machine, hoist (1 or 2 drums), barber green and similar type machine, maintenance engineer (mechanic), Mechanical slurry machines (all kinds), belt crete and similar type bituminous spreading machines, post hole digger, bulldozer, elevating type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity), fine

POWER EQUIPMENT OPERATORS
BUILDING CONSTRUCTION

CLASSIFICATIONS (CONT'D)
GROUP III (CONT'D): grade and finish rollers, side boom tractor, [illegible] crusher, compressors (4 not to exceed 2000 cfm), concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane [illegible] 3/8 yds. capacity or less (factory rating), tournapull and similar type dinky locomotives (all types), tower mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler
GROUP IV: Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft. in length), fireman, belt crete generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 cfm combined capacity, longitudinal float
GROUP V: Truck Crane
GROUP VI: Master Mechanic

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION (Includes excavating for site preparation)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP I	13.09	1.25	1.45	a	.15
GROUP II	12.65	1.25	1.45	a	.15
GROUP III	11.41	1.25	1.45	a	.15
GROUP IV	10.31	1.25	1.45	a	.15

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, providing the employee works the day before and the day after the holiday

CLASSIFICATIONS:
GROUP I: Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), Blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over) crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, gradall or similar), fork lift (factor rated 15' and over), front end loader 4 c.y. and over, head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel
GROUP II: Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill (truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 CFM combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum Kolman plant loader and similar type loaders), locomotive maintenance/engineer/greaseman/welder, (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch cat

POWER EQUIPMENT OPERATORS
HEAVY & HIGHWAY CONSTRUCTION

CLASSIFICATIONS (CONT'D)
GROUP III: Asphalt curb and gutter machine, blower for burning brush, chipping machine and chip spreader, compressor (4 not to exceed 2,000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m.), dust collectors, generators, pumps, welding machines (4 of any type or combination), concrete pavement spreaders and finishers, concrete curb and gutter machine, concrete curing machines, conveyor drill core, drill well, electric pump used in conjunction with well point systems, farm tractor with accessories, fine grade machine, hammers-hydraulic-self-propelled, hydraulic rock expander of similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, will point

GROUP IV: Aggeregate plant, boiler, (used in conjunction with production), C.M.I. and similar type concrete spreaders, cement bin operator, compressors (3 or less not to exceed 1,200 c.f.m. combined capacity), compressors (any size, but subject to other provisions, for compressors), dust collectors generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power broom, power heaterman, revinius widener, steam cleaner, tractor

TRUCK DRIVERS
HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CLASS 1	9.74	1.10	.90	a	
CLASS 2	9.79	1.10	.90	a	
CLASS 3	9.84	1.10	.90	a	
CLASS 4	9.99	1.10	.90	a	
CLASS 5	10.14	1.10	.90	a	

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee has worked the working day before and after the holiday

CLASSIFICATIONS:
CLASS 1: Pickups, panel trucks, flatbed material trucks (straight jobs), single axle dump trucks, dumpster, greasers, truck tiremen

CLASS 2: Tandems, batch trucks, and mechanics

CLASS 3: Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic

CLASS 4: Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier

CLASS 5: Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded

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: NORTH CAROLINA COUNTIES: Bladen, Columbus, Robeson, and Scotland

DECISION NUMBER: NC81-1245 DATE: Date of Publication

Supersedes Decision No.: NC81-1151, December 30, 1980, 46 FR 2000

DESCRIPTION OF WORK: Residential Construction (including 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.
AIR CONDITIONING MECHANICS	$6.00				
BRICKLAYERS	6.50				
CARPENTERS	5.00				
CEMENT MASONS	4.67				
DRYWALL FINISHERS	5.81				
DRYWALL HANGERS	6.00				
ELECTRICIANS	5.00				
INSULATION APPLICATORS	4.28				
LABORERS	3.78				
PAINTERS:					
Brush	4.00				
Spray	6.00				
PLUMBERS & PIPEFITTERS	6.40				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.88				
Loader	4.38				
Paver	3.98				
Screed	3.98				
ROOFERS	5.00				
SHEET METAL WORKERS	5.93				
SOFT FLOOR LAYERS	5.29				
TILE SETTERS	6.75				
TRUCK DRIVERS	3.93				
WELDERS - Rate for Craft					

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: TENNESSEE COUNTIES: *See Below

DECISION NUMBER: TN81-1243 DATE: Date of Publication

Supersedes Decision No. TN77-1137 dated November 25, 1977 in 42 FR 60510

DESCRIPTION OF WORK: Residential Construction, consisting of single family homes and apartments of 4 stories or less.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
* Cheatham, Davidson, Robertson, Rutherford, Sumner, Williamson and Wilson Counties					
BRICKLAYERS	$7.32				
CARPENTERS	6.00				
CEMENT MASONS	6.37				
DRYWALL FINISHERS	7.32				
DRYWALL HANGERS	8.00				
ELECTRICIANS	5.62				
INSULATION INSTALLERS	4.50				
LABORERS:					
Unskilled	4.22				
Pipelayer	4.42				
PAINTERS	5.84				
PLUMBERS & PIPEFITTERS	7.00				
ROOFERS	6.00				
SHEET METAL WORKERS	5.92				
SOFT FLOOR LAYERS	6.20				
TILE SETTERS	6.00				
TRUCK DRIVERS	4.79				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.46				
Bulldozer	5.00				
Loader	6.25				
Roller	5.32				

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 clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Henrico and the Independent City of Richmond

DECISION NO.: VA81-3037

DATE: Date of Publication

Supersedes Decision No. VA80-3065 dated October 31, 1980 in 45 FR 72460

DESCRIPTION OF WORK: Building Construction (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	11.93	.80	1.05		.01
BOILERMAKERS	13.80	1.275	1.30		.04
BRICKLAYERS AND STONEMASONS	12.50	.85	.40		.02
CARPENTERS AND SOFT FLOOR LAYERS	10.85	.75	.55		.06
CEMENT MASONS	10.30				
CEMENT MASONS MACHINE MAN	10.40				
ELECTRICIANS:					
ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	13.65	7%	3%		½%
ZONE II-remainder of city of Richmond and Henrico County	14.40	7%	3%		½%
ELEVATOR CONSTRUCTORS	11.005	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	7.70	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	5.50				
GLAZIERS	10.75	.65	.35		.01
IRONWORKERS-STRUCTURAL, REINFORCING AND ORNAMENTAL:					
ZONE I-up to 10 miles from Capital Square	12.25	.55	1.00		.05
ZONE II-from 10 miles to 30 miles radius	12.625	.55	1.00		.05
ZONE III-from 30 miles and beyond	12.875	.55	1.00		.05
LABORERS:					
Unskilled	7.00	.25	.35		.06
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	7.10	.25	.35		.06
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble and Tile and Terrazzo Workers Helpers	7.25	.25	.35		.06
Burners (wrecking)	7.35	.25	.35		.06

DECISION NO. VA81-3037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LABORERS (CONT'D)					
Floor, Base and Terrazzo Grinders	7.40	.25	.35		.06
Wagon Drill, Air Trac and Similar Drills	7.50	.25	.35		.06
Powdermen	7.75	.25	.35		.06
LATHERS:					
Plasterer and Drywall Finish	10.69	.65	.30		.01
Sheet Rock Applicator	8.99	.65	.30		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINEMEN AND CABLE SPLICERS:					
ZONE I-within a 12 mile air radius of Staples Mill Road and Broad Street in the City of Richmond	12.35	6½%	3%		½%
ZONE II-remainder of City of Richmond and Henrico County	13.10	6½%	3%		½%
MARBLE, TILE AND TERRAZZO WORKERS	9.50				
MILLWRIGHTS	12.35	.65	.55		.01
PAINTERS:					
Brush, Paperhangers, Tapers and Finishers	10.00				
Structural Steel, Swing Stage and Bosun Chair	10.25				
Scaffold or Other Hazard Work Over 50 Feet	10.25				
Spray	10.50				
Sandblasting, Elevated Tanks, Smoke Stacks and all Towers	10.65				
PILEDRIVERMEN AND DOCK-BUILDERS	10.60	.65	.55		
PLASTERERS	11.65				
PLUMBERS AND STEAMFITTERS	12.40	.60	.70		.05
ROOFERS COMPOSITION	7.45				
ROOFERS HELPERS (TEARING OFF OLD ROOFING, CARRYING MATERIALS & CLEAN-UP)	5.55				

DECISION NO. VA81-3037	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
SHEET METAL WORKERS:					
City of Richmond	11.32	.45	.35		.01
Remainder of County	11.57	.45	.35		.01
SOUND AND SIGNAL INSTALLER	6.00				
SPRINKLER FITTERS	11.79	.85	1.20		.08

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F, Day after Thanksgiving.

c. Paid Holidays: A through F; Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

DECISION NO. VA81-3037	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
GROUP 1	11.55	.675	.70		.10
GROUP 2	9.25	.675	.70		.10
GROUP 3	7.45	.675	.70		.10
GROUP 4	7.25	.675	.70		.10
GROUP 5	7.06	.675	.70		.10

CLASSIFICATIONS

GROUP 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16 S, fork lift

GROUP 3 - Compressor over 125 cu. ft., bottom and end dumps, tractor without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4 - Firemen

GROUP 5 - Oilers

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: Virginia

COUNTIES: York County, The Cities of Hampton and Newport News (including [illegible], Fort Eustis and Fort Monroe)

DECISION NO.: VA81-3036 DATE: Date of Publication

Supersedes Decision No. VA80-3066 dated October 31, 1980 in 45 FR 72457

DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up and including 4 stories), Sewer and Water Line Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.60	.85	.85		.01
BOILERMAKERS	13.80	1.275	1.30		.04
BRICKLAYERS AND STONE MASONS	11.50				
CARPENTERS AND SOFT FLOOR LAYERS	10.85	.75	.55		.06
CEMENT MASONS:					
Cement Masons	9.95	.40			
Machine and Scaffold Men	10.05	.40			
ELECTRICIANS:					
Zone I-within a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
Wiremen	11.55	.75	8%		1%
Cable Splicers	11.80	.75	8%		1%
Zone II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
Wiremen	12.55	.75	8%		1%
Cable Splicers	12.80	.75	8%		1%
ELEVATOR CONSTRUCTORS	10.33	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS	7.23	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	5.165				
GLAZIERS	10.75	.65	.35		.01
IRONWORKERS:					
Structural, ornamental, riggers, reinforcing, fence erectors, and machinery movers	11.80	.75	1.25		.08
LABORERS:					
Unskilled	7.00	.25	.35		.06
Tenders, motorized Georgia buggy operators, nozzlemen (gunite or sandblasting), concrete saw operators, air tool and vibrator operators	7.10	.25	.35		.06

DECISION NO. VA81-3036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS CONT'D:					
Mortar mixers, hod carriers, pipelayers, caulkers, marble, tile and terrazzo worker helpers	7.25	.25	.35		.06
Burners (wrecking)	7.35	.25	.35		.06
Floor, base, and terrazzo grinder	7.40	.25	.35		.06
Wagon drill and air trac	7.50	.25	.35		.06
Powdermen	7.75	.25	.35		.06
LATHERS	10.75		.25		
LINE CONSTRUCTION:					
Zone 1-within a 16 air mile radius of 7812 Warwick Blvd., Newport News:					
Linemen	11.05	.60	8%		1%
Cable Splicer	11.30	.60	8%		1%
Zone II-beyond a 16 air mile radius of 7812 Warwick Bldv., Newport News:					
Linemen	12.05	.60	8%		1%
Cable Splicer	12.30	.60	8%		1%
MARBLE SETTERS	10.30				
MILLWRIGHTS	12.35	.65	.55		.01
PAINTERS:					
(York County from a point on the north shore of Queens Creek at the intersection of York River due west to a point on the eastern shore of James River including all cities therein the cities of Hampton and Newport News:)					
Brush and roller	9.40	.35	.45		
Paperhanger, taper, spray, roller with a 6' handle or over, structural steel to 74' from the ground up, swing stage, under 40', sandblasting	9.75	.35	.45		

DECISION NO. VA81-3036

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS CONT'D:					
Swing stage over 40', spray epoxy	10.00	.35	.45		
Epoxy brushed or rolled	9.65	.35	.45		
All work over 74' from the ground	9.90	.35	.45		
Bituminous coatings, hot creosote	10.80	.35	.45		
PAINTERS: REMAINDER OF COUNTY OF YORK					
Brush and roller	10.00	.35	.45		
Paperhanging, taper, spray, roller with a handle 6' or over, structural steel 74' from the ground up, swing stage under 40', sand-blasting	10.35	.35	.45		
Swing stage over 40', epoxy sprayed	10.60	.35	.45		
Epoxy brushed or rolled	10.25	.35	.45		
All work over 74' from the ground	10.50	.35	.45		
Bituminous coatings, hot creosote	11.40	.35	.45		
Piledrivermen and dock-builders	10.60	.65	.55		
Plasterers	12.06	.40			
Plumbers and Steamfitters	12.60	.75	.55		.02
Roofers composition	7.45				
Roofers helpers (tearing off old roofing, carrying materials & clear-up)	5.55				
Sheet metal workers:					
Newport News and Hampton	10.30	.45	.55		.005
York County	10.55	.45	.55		.005
Sound and Signal Installer	6.00				
Sprinkler fitters	11.79	.85	1.20		.08
Terrazzo workers and tile setters	10.30				
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. VA81-3036

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Day after Thanksgiving.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:					
Group 1	11.55	.675	.70		.10
Group 2	9.25	.675	.70		.10
Group 3	7.45	.675	.70		.10
Group 4	7.25	.675	.70		.10
Group 5	7.06	.675	.70		.10

CLASSIFICATIONS:

Group 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

Group 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16S, fork lift

Group 3 - Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

Group 4 - Firemen

Group 5 - Oilers

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SEWER AND WATER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	3.38				
PIPELAYERS	4.59				
TRUCK DRIVERS	3.50				
LOADERS	4.69				
BACKHOE	6.50				
CRANES	7.90				

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: Virginia

LOCATION: The Cities of Chesapeake, Portsmouth and Virginia Beach

DECISION NO.: VA81-3035

DATE: Date of Publication

Supersedes Decision No. VA80-3067 dated October 31, 1980 in 45 FR 72460

DESCRIPTION OF WORK: Building Construction (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	11.60	.85	.85		.01
BOILERMAKERS	13.80	1.275	1.30		.04
BRICKLAYERS AND STONE MASONS	11.98	.70	.20		.03
CARPENTERS AND SOFT FLOOR LAYERS	10.85	.75	.55		.06
CEMENT MASONS:					
Cement Masons	9.95	.40			
Machine and Scaffold Men	10.05	.40			
ELECTRICIANS AND CABLE SPLICERS	11.70	.60	8%	a	1%
ELEVATOR CONSTRUCTORS	10.33	1.195	.95	b+c	.035
ELEVATOR CONSTRUCTORS HELPERS	7.23	1.195	.95	b+c	.035
ELEVATOR CONSTRUCTORS HELPERS PROBATIONARY	5.165				
GLAZIERS	10.75	.65	.35		.02
IRONWORKERS:					
Reinforcing, Ornamental, Structural, Riggers, Fence Erectors, Machinery Movers	11.80	.75	1.25		.08
LABORERS:					
Unskilled	7.00	.25	.35		.06
Tenders, Motorized Georgia Buggy Operators, Nozzlemen (gunite or sandblasting), Concrete Saw Operators, Air Tool and Vibrator Operators	7.10	.25	.35		.06
Mortar Mixers, Hod Carriers, Pipelayers, Caulkers, Marble, Tile and Terrazzo Workers Helpers	7.25	.25	.35		.06
Burners (wrecking)	7.35	.25	.35		.06
Floor, Base and Terrazzo Grinders	7.40	.25	.35		.06
Wagon Drill and Air Trac	7.50	.25	.35		.06
Powdermen	7.75	.25	.35		.06
LATHERS	10.75		.25		
LEAD BURNERS	10.75	.40	.25	d	.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LINE CONSTRUCTION:					
Linemen and Cable Splicers	11.70	.60	8%		1%
MARBLE SETTERS	9.85	.60	.20		
MILLWRIGHTS	12.35	.65	.55		.01
PAINTERS:					
Brush and Roller	10.25		.50		
Structural Steel from Ground to 74 feet	10.75		.50		
Spray, Paperhangers and Tapers	10.60		.50		
Any Work Over 74 feet from the Ground	11.55		.50		
Bituminous Coating and Hot Creosote	11.90		.50		
Swing Stage Under 40 Feet, Rollers With 6 Feet Handles and Over, Epoxy Brushed or Rolled	10.50		.50		
Swing Stage Over 40 Feet	10.75		.50		
Epoxy, Sprayed	10.85		.50		
Sandblasting	11.00		.50		
PILEDRIVERMEN AND DOCK-BUILDERS	10.60	.65	.55		
PLASTERERS	12.06	.40			
PLUMBERS AND STEAMFITTERS	11.55	.80	.85		.12
ROOFERS COMPOSITION	7.45				
ROOFERS HELPERS (Tearing off old roofing, carrying materials & clean-up)	5.55				
SHEET METAL WORKERS	10.05	.45	.55		.005
SOUND AND SIGNAL INSTALLER	6.00				
SPRINKLER FITTERS	11.79	.85	1.20		.08
TERRAZZO AND TILE WORKERS	9.85	.60	.20		

DECISION NO. VA81-3035

WELDERS-receive rate prescribed for craft performing operation for which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Workmen shall be allowed 2 hours with pay at the start or at the end of the work day on State and National Election days; Tuesday following the first Monday in November, provided they are qualified to and Vote.

b. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years service as vacation pay credit.

c. Holidays: A through F, Day after Thanksgiving.

d. Holidays: A through F; Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday.

DECISION NO. VA81-3035

POWER EQUIPMENT OPERATORS - BUILDING CONSTRSUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP 1	11.55	.675	.70		.10
GROUP 2	9.25	.675	.70		.10
GROUP 3	7.45	.675	.70		.10
GROUP 4	7.25	.675	.70		.10
GROUP 5	7.06	.675	.70		.10

CLASSIFICATIONS

GROUP 1 - Tunnel machine, cranes, derricks, pile drivers, pavers, two or more drum hoist, finish motor grader, mechanic, batch plant, gradall, quad

GROUP 2 - Cableways, tractors with attachments, combination front end loader and backhoe, front end loader, rubber tired scraper and pans, rough motor grader, 20-ton locomotive, bulldozers, pump crete, trenching machine, mixer larger than 16S, fork lift

GROUP 3 - Compressor over 125 cu. ft., bottom and end dumps, tractors without attachments, 1 drum hoist, rollers, welding machines (gas or diesel), locomotive under 20-tons, power plant, generator (1200 KW or larger), pumps (over 2 inches, including wellpoints), A-frame trucks, mechanic's helper

GROUP 4 - Firemen

GROUP 5 - Oilers

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)).

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federal register

Friday
June 12, 1981

Part III

Department of Justice

Federal Prison Industries and Bureau of Prisons

Inmate Accident Compensation; Provisions and Proposed Provisions for Management of Inmates in Federal Correctional Institutions

DEPARTMENT OF JUSTICE

Federal Prison Industries

28 CFR Part 301

Inmate Accident Compensation

AGENCY: Federal Prison Industries, Justice.

ACTION: Final rule with comments invited on interim §§ 301.4 and 301.10(c).

SUMMARY: This document revises and republishes in its entirety, and amends portions of, the procedures governing operation of the Federal Prison Industries Inmate Accident Compensation program. This document contains information on procedures governing payment of inmate accident compensation to inmates who have sustained an impairment as a result of a work assignment in Federal Prison Industries, Inc., or in an institutional work assignment involving the operation or maintenance of a federal correctional institution. The amended rule also incorporates a final rule on lost-time wages, previously published as a proposed rule in the **Federal Register** January 12, 1979 (at 44 FR 2985–86). Sections 301.4 and 301.10(c) are published as interim rules with public comment invited on these sections.

DATE: Effective date: This rule becomes effective July 1, 1981. Public comment on interim §§ 301.4 and 301.10(c) must be received on or before August 11, 1981.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: In this document Federal Prison Industries, Inc., is republishing in its entirety, and amending portions of, its provisions governing inmate accident compensation. As the amendments place no increased burden on a claimant, but are amendments of internal procedure, interpretation of policy, or rewording, the provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date is inapplicable.

On January 12, 1979, the Bureau of Prisons published in the **Federal Register** (at 44 FR 2985–86) its proposed rule governing lost-time wages. Public comment on the proposed rule was invited. Following a review of the proposed rule, it has been determined that lost-time wages is more appropriately designated in Chapter III, rather than Chapter V, of 28 CFR. Accordingly, the final rule on lost-time wages is included in Part 301, Inmate Accident Compensation.

In revising its rule on Inmate Accident Compensation the Bureau has decided to publish §§ 301.4 and 301.10(c) as interim rules and to accept public comment through August 11, 1981. Section 301.4 revises the reporting procedure for inmate injuries and, as a result, should expedite the reporting process. Section 301.10(c) expands the present rule by identifying the persons who are ordinarily considered dependents, and the factors considered in determining whether an inmate contributes to the support of dependents.

Members of the public may submit comments on these rules by writing to the above address. Comments on other than the interim rule will be considered, but will receive no further response in the **Federal Register**. Comments on the interim rule will be considered before final action is taken.

The Bureau of Prisons has determined that this is not a major rule for the purpose of Executive Order 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this set of rulemaking since the rules involve agency management. After review of the law and the regulations, the Director, Bureau of Prisons (Commissioner, Federal Prison Industries, Inc.) has certified that these rules for the purpose of the Regulatory Flexibility Act (PL 96–354) do not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. § *301.1* Section 301.1 is reworded. The final rule recognizes that inmate accident compensation may be paid to the dependents of former federal prison inmates. The intent of proposed § 546.10 is incorporated in final § 301.1(b). Based on this redesignation, reference in the proposed rule to sections of Part 301 is deleted from new § 301.1. Section 301.1(c) is new and expands the definition of injury to include both injury by accident and an occupational disease or illness proximately caused by the conditions of the inmate's work assignment.

2. § *301.2* Section 301.2 is revised. The phrase "work detail supervisor" is substituted for "superior" in the first sentence and the word "supervisor" is substituted for "employee" in the second sentence of the amended rule. Throughout the amended rules, the more concise term "impairment" is substituted for "physical impairment."

3. § *301.4* Section 301.4(a) adds the phrase "as well as injuries observed by staff" as this also warrants completion of an injury report. The rule requires that the injury report contain the inmate's signed statement as to how the injury occurred. The inmate is to receive a copy of this report. The final rule deletes reference to the appointed representative of the safety manager ("safety officer" in the previous rule), as this is expected whenever the safety manager is unavailable. The amended rule deletes reference to the report being sent to both the Warden of the institution and to the safety administrator in Washington, D.C., since distribution is designated on the report. The amended rule requires the institution safety manager to ensure that the injury report is complete and, where appropriate, a lost-time follow-up report is prepared. Section 301.4(b) is new and requires the institution safety manager to present lost-time injury reports to the institution Safety Committee for that committee's determination as to work-relatedness of an injury. This language replaces provisions of proposed § 546.11 (a)–(d). The amended rule requires lost-time reports to go before the Safety Committee, and deletes the proposed requirement for initial determination by the safety manager. The time frame specified in proposed § 546.11(d) is deleted. Final § 301.4(b) requires each Safety Committee to have regularly scheduled meetings and to make their written determination of the work-relatedness of an injury based on available evidence and testimony. The inmate is to receive a copy of the Committee's written determination. The intent of proposed § 546.11(e) is reflected in new § 301.10(e).

A comment to proposed § 546.11(c) favored full due process hearings at a review as to whether an accident was work-related. This approach is not feasible, nor is it necessary. The existing procedure allows for a decision to be made without undue delay, based on information directly pertaining to the accident. There are adequate protections to accurate decision-making. As revised, the determination is made not by the safety manager, but rather by the institution Safety Committee. An inmate who disagrees with the decision may appeal the decision under the Administrative Remedy Procedure.

4. § *301.5* The extraneous phrase "during his confinement" is deleted from the amended rule. The amended rule adds the title of Administrative Form 43. The amended rule substitutes the phrase "medical examination" for "physical examination." The next-to-last sentence

of § 301.5(a) substitutes the word "refusal" for "failure" to better indicate conditions under which a forfeiture of rights to compensation occurs. Amended § 301.5(b) requires both Administrative Forms 19 and 19A to be referenced, or to be forwarded to the Claims Examiner.

5. § *301.6* The amended rule requires the finding of "any Inquiry Team" as opposed to "local Board of Inquiry" be forwarded to the Claims Examiner.

6. § *301.7* The amended rule adds the clarifying language "assigned to another task more suitable to the inmate's ability" as a necessary procedure for an inmate who is considered "accident-prone" in the performance of the present work assignment.

7. § *301.8* The extraneous phrase "at the time of admission" is deleted from the first sentence of § 301.8. The word "confinement" is substituted for "incarceration" in the second sentence.

8. § *301.9* The word "basically" is deleted from the first sentence of this section. The section itself sufficiently defines compensable and noncompensable injuries.

9. § *301.10* Section 301.10 is retitled "Lost-time Wages". The amended rule (§ 301.10(a)-(d)) expands information presently in § 301.10 and incorporates language originally proposed in § 546.12. Section 301.10(a) includes inmates in both industrial and non-industrial work assignments. The amended rule clarifies that while the day of injury counts as a workday, the time of day the injury occurs is considered in determining the three consecutive workday (was "mandays") limitation. Section 301.10(b) describes the basis for determination of lost-time wages, and is consistent with the previous rule. Language is added to describe the basis for lost-time wages (pay in effect at time of injury) for an inmate assigned to an institutional work assignment and who has been granted a lump sum payment (performance pay). Section 301.10(c) maintains the percentages given in the present language. The subsection does clarify the term "dependents" and provides general guidelines for determining "support of dependents". The amended rule specifies that a determination of dependency for purposes of determining lost-time wages is not binding on any subsequent claim to receive inmate accident compensation. These are separate actions and intervening events could alter dependency status.

Proposed § 546.12 is reflected in § 301.10(d). Section 301.10(d)(1) inserts the term "pre-injury", to recognize the work assignment to which the inmate returns. Section 301.10(d)(2) substitutes "another work area or program for reasons unrelated to the sustained work injury" for "employed at a different work assignment". Section 301.10(d)(3) expands the proposed rule's "return to work" to state "return to a regular work assignment or to a lighter duty work assignment." Proposed § 546.12(b) is reworded and becomes new § 301.10(d)(3)(i). Subsection (d)(3)(ii) is new and states that the inmate is to experience no loss of pay by return to a regular or lighter duty work assignment which does not offer the same pay as the pre-injury position. Pay at the pre-injury rate is to continue on the new assignment until a suitable position is available at the pre-injury rate of pay. Section 301.10(e) expands proposed § 546.11(e). The final rule advises the inmate of the right to appeal a determination through use of the Administrative Remedy Procedure on either the work-relatedness of an injury, or the rate at which lost-time wages are paid.

10. § *301.11* While this section is reworded, its basic intent is unchanged. The words "confinement" and "claimant" are substituted for "incarceration" and "applicant" respectively. The last sentence of former § 301.10 is now placed in amended § 301.11. The revised rule deletes the word "significant" as the phrase "no impairment" is the determining factor in declining to consider a claim. The revised rule substitutes the more concise term "inmate" for "injured."

11. § *301.12*–§ 301.18 The intent of these sections is unchanged. As amended, the rule now reflects some minor language changes (for example, "claimant" for "his or her", "confined" for "incarcerated", etc.). In § 301.13(b), for purposes of clarity, reference to the beneficiary is deleted as the claimant is the encompassing term. The last sentence of § 301.13(b) is deleted from the revised rule as its intent is recognized within existing legal authority. In § 301.16(a), the amended rule substitutes "Committee" for "Bureau of Prisons" to properly designate the responsible area. Similarly, § 301.18 substitutes "Federal Prison Industries, Inc." for "Bureau of Prisons". In § 301.17(a) the phrase "under review" is added to clarify the nature of evidence to be presented. Section 301.17(b) is amended to recognize that the Committee may be presented oral, pictorial, and written evidence.

12. § *301.19* § 301.19(b) deletes the requirement that the claimant is responsible for costs related to the services of the claimant's representative. It is beyond the scope of Federal Prison Industries, Inc., to dictate who bears this cost. As amended, the section specifies that Federal Prison Industries, Inc., may not assume such costs. Amended § 301.19(c) inserts the phrase "A request for additional information, or" to recognize such an occurrence, and to indicate how it is to be handled. Other revisions to § 301.19 consist of minor word changes, and do not affect the rule substance.

13. § *301.20* In addition to minor word changes, the amended rule recognizes that the claimant's representative may be provided notification of the Associate Commissioner's decision.

14. § *301.21* The amended rule substitutes the phrase "exceed that" for "be paid in greater amount than" in describing compensation limitations.

15. § *301.22* Section 301.22 is retitled "Time and Method of Payment of Compensation Award". In addition to minor word changes, the amended rule identifies the "claims examiner" as the individual who furnishes a copy of the award authorization to the claimant, or, as amended, "to the claimant's representative". The phrase "and necessary for the support of" is deleted from the amended rule as its intent is included in the remaining language of "beneficial to the claimant or the claimant's dependents". In an earlier revision to this section, § 301.22(b) was inadvertently deleted. This section has been reworded and it is reinserted at this time. Section 301.22(b) provides that, upon request of the claimant and approval of the claims examiner, accident compensation may be paid to the dependents of the claimant. Provisions in the event of death of the claimant are also provided. New § 301.22(b) authorizes a dependent, in the event of the death of the claimant, to exercise the same right of review which ordinarily would have been afforded the claimant.

16. § *301.23* The amended rule, retitled "Medical Treatment Required Following Release", is reworded. The section's basic intent is unchanged. As revised, the rule states that the claims examiner must authorize in advance all medical and hospital treatment, and other related expense incurred after the individual's release from confinement. The rule authorizes the claims examiner to waive this requirement where warranted (e.g., for emergency treatment). Deleted is specific language requiring notification to the claims examiner, and advisement by the claims examiner to the claimant of procedures to be followed. These procedures are implied in the revised language.

17. §§ *301.24–26* These sections have undergone some minor word changes (for example, "award" for "claim"). No substantive changes have been made.

Conclusion

By virtue of the authority vested in the Attorney General by 18 U.S.C. 4126 and delegated by the Attorney General at 28 CFR 0.99 to the Board of Directors of Federal Prison Industries, Inc., Part 301 of Chapter III of title 28, Code of Federal Regulations is hereby amended as set forth below. The effective date of this rule is July 1, 1981.

Dated: June 8, 1981.

Norman A. Carlson,

Commissioner, Federal Prison Industries, Inc., Director, Bureau of Prisons.

By revising Part 301 to read as follows:

PART 301—INMATE ACCIDENT COMPENSATION

Sec.

301.1 Purpose and scope.
301.2 Medical attention.
301.3 Record of injury and initial claim.
301.4 Report of injury.
301.5 Prerelease claim for compensation.
301.6 Report of death.
301.7 Report of repetitious accidents.
301.8 Inmate work assignments.
301.9 Compensable and noncompensable injuries.
301.10 Lost-time wages.
301.11 Compensation awards.
301.12 Processing of claims.
301.13 Request for hearing or reconsideration, disclosure.
301.14 Committee reconsideration.
301.15 Notice, time, place of hearing and postponement.
301.16 Witnesses.
301.17 Conduct of hearing.
301.18 Expenses.
301.19 Representation of claimant.
301.20 Review by the Associate Commissioner of Federal Prison Industries, Inc.
301.21 Establishing the amount of the award.
301.22 Time and method of payment of compensation award.
301.23 Medical treatment required following release.
301.24 Civilian compensation laws distinguished.
301.25 Employment of attorneys.
301.26 Exclusive remedy.

Authority: 18 U.S.C. 4126, 28 CFR 0.99, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

§ 301.1 Purpose and scope.

(a) As authorized by 18 U.S.C. 4126, the procedures for this part govern the payment of accident compensation to former Federal prison inmates or to their dependents. Such compensation shall be awarded for impairments from injuries sustained while performing work assignments in Federal Prison Industries, Inc., or in institutional work assignments involving the operation or maintenance of a Federal correctional institution.

(b) The Bureau of Prisons also follows uniform procedures for determining both the work-relatedness of an injury sustained by an inmate, and for determining whether lost-time wages are paid to that inmate. Inmates assigned to Federal Prison Industries, Inc., or to paid institutional work assignments involving the operation or maintenance of a Federal correctional institution, may receive lost-time wages for work-related injuries resulting in time lost from the work assignment.

(c) For purposes of lost-time wages and compensation, injury, in addition to an accident which is work-related, shall also be defined to include occupational disease or illness proximately caused by the conditions of the inmate's work assignment.

§ 301.2 Medical attention.

Whenever an inmate worker is injured while in the performance of assigned duty, regardless of how trivial the injury may appear, the inmate shall immediately report the injury to the inmate's official work detail supervisor. The supervisor will take whatever action is necessary to secure for the injured inmate such first aid, medical, or hospital treatment as may be necessary for the proper treatment of the injury. Medical, surgical, and hospital service shall be furnished by the medical staff of the institution. Refusal by an inmate worker to accept such medical, surgical, hospital, or first aid treatment may cause forfeiture of any claim for accident compensation for impairment resulting from the injury.

§ 301.3 Record of injury and initial claim.

After initiating necessary action for medical attention the work detail supervisor shall immediately secure a record of the cause, nature, and exact extent of the injury, and shall see that the injured inmate submits within 48 hours sufficient information for the supervisor to complete Administrative Form 19, Injury Report (Inmate). The names and testimony of all witnesses shall be secured. If the injury resulted from the operation of mechanical equipment, an identifying description of the machine or instrument causing the injury shall be given.

§ 301.4 Report of injury.

(a) The work detail supervisor shall complete an Administrative Form 19, Injury Report (Inmate), on all injuries reported by the inmate, as well as injuries observed by staff. The injury report shall contain a signed statement from the inmate on how the accident occurred. Staff shall provide the inmate with a copy of the injury report. Staff shall then forward the original and remaining copies of the injury report to the institutional safety manager for a review as to its completeness. The institution safety manager shall ensure that a medical description of the injury is included on the Administrative Form 19 whenever the injury is such as to require medical attention. The institution safety manager shall also ensure that the appropriate sections of Administrative Form 19A (Injury—Lost-Time Follow-up Report) are completed and that there is documentation for all reported work injuries which result in lost-time from the work assignment.

(b) When the institution safety manager receives notice, or has reason to believe, that the injury will result in time lost from the work assignment, the institution safety manager shall present both the completed Administrative Form 19, and Administrative Form 19A, with the appropriate sections completed, to the Institution Safety Committee at the Committee's next regularly scheduled meeting. The Safety Committee shall make a written determination, indicated on Administrative Form 19A, of the injury's work-relatedness based on the available evidence and testimony. A copy of the Safety Committee's determination shall be provided to the inmate.

§ 301.5 Prerelease claim for compensation.

(a) As soon as a release date or transfer to a community treatment center is determined, but not in advance of 30 days prior to this date, each inmate injured in industries or on an institutional work assignment who feels that a residual impairment exists as a result of a work-related injury shall be given FPI Form 43, Inmate Claim for Compensation on Account of Work Injury, and shall be informed of the right to make a claim for compensation. Every assistance will be given the inmate to properly prepare the claim if the inmate wishes to file. Claims must be made within 60 days following release from the institution when circumstances preclude submission prior to release. However, a claim for impairment may be allowed within one year after release from the institution or community treatment center, for reasonable cause shown. In each case a medical examination shall be given and a definite statement made as to the

impairment caused by the alleged injury. Refusal to submit to a final medical examination before release or transfer to a community treatment center shall result in the forfeiture of all rights to compensation and to future medical treatment. In each case of visible impairment, disfigurement, or loss of member, photographs shall be taken to show the actual condition and shall be transmitted with FPI Form 43.

(b) The claim, after preparation and execution by the inmate, shall be completed by the physician making the final examination. It shall be forwarded promptly to the Claims Examiner, Federal Prison Industries, Inc., Washington, D.C. 20534, accompanied by, or with reference made to, Forms 19, and 19A, Injury Report (Inmate) and Injury—Lost-Time Follow-Up Report, respectively.

§ 301.6 Report of death.

If a work-related injury results in death, an FPI Form 43, an Administrative Form 19, and the findings of any Inquiry Team will be promptly forwarded to the Claims Examiner, Federal Prison Industries, Inc., Washington, D.C. 20534.

§ 301.7 Report of repetitious accidents.

If an inmate worker is injured more than once in a comparatively short time and the circumstances of the injury indicate an awkwardness or ineptitude that in the opinion of the inmate's work supervisor implies a danger of further accidents in the task assigned, the inmate shall be relieved of the performance of the task, and assigned to another task more suitable to the inmate's ability.

§ 301.8 Inmate work assignments.

The classification committee of each institution, which normally designates inmate work assignments, or whoever makes institutional work assignments, will review appropriate medical records, presentence reports, admission summaries, and the like in order to preclude the assignment of individuals to work tasks not compatible with their physical condition. A careful review of all records available is also imperative when inmate workers are reassigned to new and different tasks during their confinement.

§ 301.9 Compensable and noncompensable injuries.

Compensation is paid for "on the job" injuries. This includes not only injuries suffered on an inmate's regular work assignment, but also those injuries resulting from voluntary work, approved by staff, in the operation or maintenance of the institution. Compensation is not paid, however, for injuries resulting from participation in institutional programs (such as programs of a social, recreational, or community relations nature) or from maintenance of one's own living quarters. Furthermore, compensation will not be paid for injuries suffered away from the work location, e.g., while the claimant is going to or leaving work, or going to or coming from lunch outside of the work station or area. Injuries sustained by inmate workers willfully or with intent to injure someone else, or injuries suffered in any activity not related to their work assignment are not compensable, and no claim for compensation for such injuries will be considered. Any injury resulting from willful violation of rules and regulations may prevent an award of compensation.

§ 301.10 Lost-time wages.

(a) *General*—No accident compensation for compensable injuries shall be paid prior to the inmate's release from confinement. However, an inmate worker receives lost-time wages for the number of regular work hours that the inmate is absent from work due to injury sustained in the performance of the inmate's work assignment. Lost-time wages are paid for time lost in excess of three consecutively scheduled workdays. While the day of injury counts as a workday, the time of day that the injury occurs is considered in determining the three consecutive workday limitation.

(b) *Basis for determination of lost-time wages*—Lost-time wages shall be based on the standard hourly rate paid to the inmate at the time of injury. If the inmate is assigned to an institutional work assignment and has been granted a lump sum payment (performance pay), lost-time wages shall be based on the pay in effect at the time of injury.

(c) *Rate of lost-time wages*—The rate of pay shall be 66⅔% of the standard hourly rate for an inmate who is not contributing to the support of dependent(s), and 75% of the standard hourly rate for an inmate who is contributing to the support of dependent(s). Dependent(s) ordinarily refers to any person verified as wife, husband, or child. A determination of dependency for purposes of determining lost-time wages is not binding on any subsequent claim by the inmate to receive inmate accident compensation. A determination on whether the inmate contributes to the support of dependent(s) is ordinarily made by the inmate's timekeeper through the existence of a FPI Dependency Contract, or through a review of the Unit Manager's and/or Business Manager's record of the inmate worker's commissary account withdrawals. Staff shall consider the following factors in making a determination on whether the inmate contributes to the support of a dependent(s):

(1) Whether the inmate contributed at least $5.00 to the support of any dependent(s) during the three months preceding the work-related injury, provided monthly earnings are below the current monthly commissary spending limitation; or

(2) Whether the inmate contributed at least $10.00 to the support of any dependent(s) during the three months preceding the work-related injury, provided monthly earnings exceeded the current monthly commissary spending limitation; or

(3) Whether the inmate contributed at least $5.00 to the support of any dependent(s) during the six months preceding the work-related injury, provided the inmate has been in the paid work assignment for a period less than three months immediately preceding that injury.

(d) *Continuation of lost-time wages*—The inmate shall receive lost-time wages until the inmate:

(1) Returns to the pre-injury work assignment;

(2) Is reassigned to another work area or program for reasons unrelated to the sustained work injury;

(3) Is medically certified as fit for return to a regular work assignment or to a lighter duty work assignment;

(i) An inmate who refuses to return to a regular work assignment or to a lighter duty work assignment, after medical certification of fitness for such duty, relinquishes all rights to further payment of lost-time wages from the date of such refusal.

(ii) An inmate medically certified as fit for work shall sustain no monetary loss due to a required change in work assignment. Where there is no light duty or regular work assignment available at the same rate of pay as the inmate's pre-injury work assignment, that inmate shall be paid the difference in lost wages. Lost-time wages are paid until a light duty or regular work assignment is available at the same pay rate as the inmate's pre-injury work assignment or until the inmate is medically certified for return to the pre-injury work assignment;

(4) Is transferred to another institution for reasons unrelated to the work injury; or

(5) Is released from Federal custody.

(e) *Appeal of determination*—An inmate who disagrees with the decision

on either the work-relatedness of an injury or the rate at which lost-time wages are paid may appeal that decision through the Administrative Remedy Procedure.

§ 301.11 Compensation awards.

The amount of accident compensation shall be determined at the time of release regardless of when during the claimant's period of confinement the injury was sustained or of any payment made in lieu of regular earnings or of any medical or surgical services furnished prior to such release. No claim for compensation will be considered if full recovery occurs while the inmate is in custody and no impairment remains after release.

§ 301.12 Processing of claims.

(a) A claim for inmate accident compensation shall be determined by a Claims Examiner, appointed by the Commissioner, Federal Prison Industries, Inc., under authority delegated to him by the Board of Directors of Federal Prison Industries, pursuant to 28 CFR 0.99. In determining the claim, the Claims Examiner will consider all available evidence. Written notice of the decision, including the reasons therefore, together with information as to the right to appeal the decision, shall be mailed to the claimant at the claimant's last known address.

(b) Appeal of the decision rendered by the Claims Examiner may be made to the Inmate Accident Compensation Committee (hereinafter referred to as the "Committee") appointed by the Commissioner, Federal Prison Industries, Inc., under authority delegated to him by the Board of Directors of Federal Prison Industries pursuant to 28 CFR 0.99. The Committee shall consist of four members and four alternates, with any combination of three thereof required to form a quorum for decision-making purposes.

§ 301.13 Request for hearing or reconsideration, disclosure.

(a) Any claimant not satisfied with the decision of the Claims Examiner shall, upon written request made within 30 days after the date of issuance of such decision or thereafter, upon a showing of good cause, be afforded an opportunity for either a hearing before the Committee, or Committee reconsideration of the decision. A claimant may request a hearing or reconsideration by writing to the Inmate Accident Compensation Committee, Federal Bureau of Prisons, Washington, D.C. 20534.

(b) Upon receipt of claimant's request, a copy of the information upon which the Claims Examiner's initial determination was based shall be mailed to the claimant at the claimant's last known address. Where the Claims Examiner determines the release of information to the claimant is not in the best interest of the claimant, the Claims Examiner may release the information to the claimant's representative or personal physician upon receipt of both a written authorization from the claimant and a written request from the representative or personal physician.

§ 301.14 Committee reconsideration.

If the claimant elects to have the Committee reconsider the initial determination, the claimant may submit documentary evidence which the Committee shall consider in addition to the original record. The Committee shall fix the time in which it will receive evidence, and may request additional documented evidence from the claimant or other source. A copy of the Committee's reconsidered decision shall be mailed to the claimant at the claimant's last known address.

§ 301.15 Notice, time, place of hearing and postponement.

(a) The hearing or reconsideration shall be held within 60 days of the Committee's receipt of claimant's request, except as provided in paragraph (b) of this section. Notice of the date set for Committee action shall be mailed to the claimant at the claimant's last known address. When practical, the hearing shall be set at a time convenient for the claimant, and all hearings shall be conducted at the Central Office of the Bureau of Prisons, Washington, D.C. 20534.

(b) A hearing or reconsideration may be postponed at the option of the Committee, or, if good cause is shown, upon request of the claimant. A claimant shall be considered to have abandoned the request for a hearing if the claimant fails to appear at the time and place set for hearing and does not, within 10 days after the time set for that hearing, show good cause for failure to appear. A claimant may change the request from either hearing to reconsideration or reconsideration to hearing, but must give the Committee notice of such change at least 10 days prior to the previously scheduled action.

§ 301.16 Witnesses.

(a) If a claimant plans to present witnesses at the hearing, the claimant must provide the Committee with a list of the witnesses' names and addresses and an outline of their proposed testimony at least 10 days prior to the scheduled hearing date. The Committee has no authority to compel the attendance of witnesses.

(b) Any person confined at the time of the hearing in a Federal, state or local penal or correctional institution may not appear as a witness, but that person's testimony may be received in the form of a written statement.

§ 301.17 Conduct of hearing.

(a) In conducting the hearing, the Committee is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, but may conduct the hearing in such a manner as to best ascertain the rights of the claimant and the obligations of the government. At such hearing, the claimant shall be afforded an opportunity to present evidence in support of the claim under review.

(b) The Committee shall receive such relevant evidence as may be adduced by the claimant and shall, in addition, receive such other evidence as the Committee may determine to be necessary and useful in evaluating the claim. Evidence may be presented orally and/or in the form of written statements and exhibits.

(c) In order to fully evaluate the claim, the Committee may question the claimant and any witness(es) appearing before the Committee on behalf of the claimant or government.

(d) A claimant, or the claimant's representative, may question the Committee or any witness(es) appearing before the Committee on behalf of the government, but only on matters which the Committee determines are relevant to its evaluation of the claim.

(e) The hearing shall be recorded, and a copy of the recording, or, in the discretion of the Committee, a transcript thereof, shall be made available to the claimant upon request, provided such request is made not later than 90 days following the date of the hearing.

(f) The Committee shall mail a written notice of its determination to affirm or amend the Claims Examiner's initial decision with the reasons therefor to the claimant at the claimant's last known address not later than 30 days after the date of the hearing, unless the Committee needs to make a further investigation as a result of information received at the hearing.

§ 301.18 Expenses.

Federal Prison Industries, Inc., may not assume any expenses incurred by the claimant, the claimant's representative, or any witness(es) appearing on behalf of the claimant in connection with attendance at the hearing.

§ 301.19 Representation of claimant.

(a) A claimant may appoint any person to represent the claimant's interest in any proceeding for determination of a claim under this part so long as that person is not confined in any Federal, state, or local penal or correctional institution. Claimant's appointment of a representative must be in writing with a copy filed with the Committee or on the record at the hearing.

(b) Federal Prison Industries, Inc., may not assume responsibility for any costs related to the services of a claimant's representative.

(c) A representative appointed in accordance with paragraph (a) of this section may make or give, on behalf of the claimant being represented, any request or notice relative to any proceeding before the Committee. A representative shall be entitled to present or elicit evidence or make allegations as to facts and law in any proceeding affecting the claimant being represented and to obtain information with respect to the claim of such claimant to the same extent as such party. A request for additional information, or notice to any claimant of any administrative action, determination, or decision, may be sent to the representative of such claimant, and such notice or request shall have the same force and effect as if it had been sent to the claimant.

§ 301.20 Review by the Associate Commissioner of Federal Prison Industries, Inc.

Any claimant not satisfied with the Committee's reconsidered decision or decision after a hearing may appeal such decision to the Associate Commissioner of Federal Prison Industries, Inc., Washington, D.C. 20534. Written notice of the appeal must be mailed within 90 days from the date of the reconsidered decision or the decision after a hearing. For good cause shown, the Associate Commissioner may waive the failure to appeal within this time limitation. The Associate Commissioner shall review the record and shall affirm or amend the appealed decision not later than 90 days after receipt of claimant's notice of appeal. Written notice of the Associate Commissioner's decision shall be mailed to the claimant's last known address, or to the claimant's representative.

§ 301.21 Establishing the amount of the award.

In determining the amount of accident compensation to be paid consideration will be given to the permanency and severity of the injury in terms of temporary and permanent impairment. The provisions of the Federal Employees' Compensation Act shall be followed when practicable. The minimum wage prescribed by the Fair Labor Standards Act, applicable at the time of each periodic payment, shall be used as the wage basis in determining the amount of such compensation. In no event shall compensation exceed that provided in the Federal Employees' Compensation Act (Title 18, United States Code 4126).

§ 301.22 Time and method of payment of compensation award.

(a) Upon determination of the amount of compensation to be paid, the Claims Examiner shall furnish a copy of the award authorization to the claimant or to the claimant's representative. Monthly payments are ordinarily mailed the first day of the month following the month in which the award is effective. Payments will ordinarily be made through the office of the U.S. Probation Officer of the district in which the claimant resides. When the amount of the awards exceeds $500, lump sum payments will rarely be made, and only in exceptional cases where it is clearly shown to be beneficial to the claimant or the claimant's dependents.

(b) When requested by the claimant and approved by the Claims Examiner, accident compensation shall be paid to dependents of the claimant. In all cases claimant must indicate in detail those persons who are dependent on the claimant, their relationship, and any other relevant facts so that the Claims Examiner will be able to determine dependency. In the event of death, compensation may be paid to dependents under the provisions of the Federal Employees' Compensation Act, if it is determined that the death was causally related to the work injury. In the event of death, a dependent may exercise the right of review.

§ 301.23 Medical treatment required following release.

The Corporation will not pay the cost of medical, hospital treatment, or any other related expense incurred after release from confinement unless the Claims Examiner either authorizes such treatment in advance or determines that circumstances warrant the waiver of this requirement.

§ 301.24 Civilian compensation laws distinguished.

Awards made under Inmate Accident Compensation differ from awards made under civilian workmen's compensation laws in that hospitalization is usually completed prior to the inmate's release from the institution and, except for a three-day waiting period, the inmate receives wages while absent from work. Other factors necessarily must be considered that do not enter into the administration of civilian workmen's compensation laws. As in the case of Federal employees who allege they have sustained work-related injuries, the burden of proof lies with the claimant to establish that the claimed impairment is causally related to the claimant's work assignment.

§ 301.25 Employment of attorneys.

It is not necessary that a claimant employ an attorney or other person to assert a claim or effect collection of an award. Under no circumstances will the assignment of any award be recognized.

§ 301.26 Exclusive remedy.

Inmates who are subject to these accident compensation laws are barred from recovering under the Federal Tort Claims Act. Recovery under the compensation law was declared by the U.S. Supreme Court to be the exclusive remedy in the case of *U.S.* v *Demko*, 385 U.S. 149, in December of 1966.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 522, 527, 544, and 545

Control, Custody, Care, Treatment, and Instruction of Inmates; Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: The Bureau of Prisons is proposing a set of rules for the management of inmates in Federal correctional institutions. This proposal is part of the Bureau's program to publish in the **Federal Register**, and subsequently in the Code of Federal Regulations, Bureau rules relating to the control, custody, care, treatment, and instruction of inmates. This installment encompasses the Bureau of Prisons proposed rules on (1) Transfer of Offenders to or from Foreign Countries, (2) Annual Survey of Inmate Education, Recreation and Library Programs, (3) Incentive Awards Program, UNICOR Inmates, and (4) Admission and Orientation Program.

DATE: Comments must be received on or before July 27, 1981.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the **Federal Register** its proposed rules on:

(1) Transfer of Offenders to or from Foreign Countries;

(2) Annual Survey of Inmate Education, Recreation and Library Programs;

(3) Incentive Awards Program, UNICOR Inmates; and

(4) Admission and Orientation Program.

The rule on Transfer of Offenders to or from Foreign Countries establishes Bureau of Prisons procedures to receive custody of, and to transfer to and from the United States, offenders in compliance with the conditions of any existing treaty with a foreign government. The rule on Annual Survey of Inmate Education, Recreation, and Library Programs requires that the Warden administer an annual survey to a representative sample of the inmate population to determine inmate perception of needs, attitudes, opinions, and recommendations concerning the structure and content of education, recreation, and library programs which operate within the institution. The survey solicits comments on, and suggestions for improving education, recreation, and library programs. The rule on Incentive Awards Program, UNICOR Inmates provides recognition to an inmate industrial worker for a special achievement by that inmate, as well as for the inmate's suggestion or invention which improves operations or safety, and/or conserves energy or materials of Federal Prison Industries, Inc. The rule on Admission and Orientation Program requires that newly committed inmates be offered an orientation to the institution, to include information on institutional requirements and, when practicable, visits to the various areas of the institution.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this set of rulemaking since the rules involve agency management. After review of the law and the regulations, the Director, Bureau of Prisons has certified that these rules, for the purpose of the Regulatory Flexibility Act (PL 96-354) do not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534. Comments received on or before July 17, 1981 will be considered before final action is taken. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to amend 28 CFR, Chapter V as follows: in Subchapter B, add Subpart E to Part 522 and Subpart E to Part 527; and in Subchapter C, add Subpart L to Part 544 and Subpart G to Part 545.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

1. By adding Subpart E to Part 522 to read as follows:

PART 522—ADMISSION TO INSTITUTION

Subpart E—Admission and Orientation Program

Sec.
522.40 Purpose and scope.
522.41 Responsibility.
522.42 Guidelines for an admission and orientation program.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart E—Admission and Orientation Program

§ 522.40 Purpose and scope.

(a) Each inmate committed or transferred to a Bureau of Prisons institution shall become involved in the institution's Admission and Orientation (A&O) Program. The Warden shall ensure that staff involved with this program offer each newly committed inmate an orientation to the institution, to include information on institutional requirements and, when practicable, visits to the various areas of the institution. The institution admission and orientation program also shall provide the inmate with an awareness of the:

(1) Inmate's rights and responsibilities;

(2) Institution's program opportunities; and

(3) Institution's disciplinary system.

(b) Staff shall develop orientation materials (for example, a pamphlet) to supplement lectures and discussions.

(c) Pre-trial inmates and inmates in holdover status (en route to a different institution) are excluded from the provisions of this rule.

§ 522.41 Responsibility.

(a) The Warden shall assign to a staff member the responsibility to co-ordinate the institution's A&O Program.

(b) Staff involved in the lecture portion of the A&O Program shall develop an outline of the information they wish to include in their presentation.

§ 522.42 Guidelines for an admission and orientation program.

(a) Location—Each Warden shall determine the appropriate location for the institution's A&O Program.

(b) Quarters—Each Warden shall establish procedures for the assignment of living quarters.

(c) Inmate Participation—The newly committed inmate is to be provided the opportunity to see and participate in institutional activities.

(d) Activities—The A&O staff coordinator is to ensure that the admission and orientation program provides a full schedule of activities for the newly committed inmate. Scheduled activities shall include exposure to programs responsive to a specialized need of the inmate, as well as exposure to various work assignments, education programs, and physical and social activity.

(e) Telephone Calls—Newly committed inmates shall be permitted to complete at least two local or collect long distance phone calls during the admission process.

(f) Length of Admission and Orientation Program—An inmate's involvement in the institution's A&O program is based on the time necessary to accomplish the program's objectives.

(g) Documentation of A&O Program Involvement—Staff shall prepare documentation that the inmate has completed the institution's admission and orientation program. Staff shall have the inmate sign and date a copy of this document. The original of this document shall be placed in the inmate central file.

2. By adding Subpart E to Part 527 to read as follows:

PART 527—TRANSFERS

Subpart E—Transfer of Offenders to or From Foreign Countries

Sec.

527.40 Purpose and scope.
527.41 Definitions.
527.42 Notification of Bureau of Prisons inmates.
527.43 Transfer of Bureau of Prisons inmates to other countries.
527.44 Transfer of State prisons to other countries.
527.45 Receiving United States citizens from other countries.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4100–4115, 4161–4166, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart E—Transfer of Offenders to or From Foreign Countries

§ 527.40 Purpose and scope.

Public Law 95–144 (18 U.S.C. 4100 et seq.) authorizes the transfer of offenders to or from foreign countries, pursuant to the conditions of a current treaty which provides for such transfer. 18 U.S.S. 4102 authorizes the Attorney General to act on behalf of the United States in regard to such treaties. In accordance with the provisions of 28 CFR 0.96b the Attorney General has delegated to the Director of the Bureau of Prisons, and to designees of the Director, the authority to receive custody of, and to transer to and from the United States, offenders in compliance with the conditions of the treaty.

§ 522.41 Definitions.

For purposes of this rule the following definitions apply.

(a) Treaty nation—A country which has entered into a treaty with the United States on the Execution of Penal Sentences.

(b) State prisoner—An inmate serving a sentence imposed in a court in one of the states of the United States, or in a territory or commonwealth of the United States.

(c) Departure institution—The Bureau of Prisons institution to which an eligible inmate is finally transferred for return to his or her country of citizenship.

(d) Admission institution—The Bureau of Prisons institution where a United States citizen-inmate is first received from a treaty nation.

§ 527.42 Notification of Bureau of Prisons inmates.

(a) The Warden shall ensure that the institution's admission and orientation program includes information on international offender transfers.

(b) The case manager of an inmate who is a citizen of a treaty nation shall inform the inmate of the treaty and provide the inmate with an opportunity to inquire about the transfer to the country of citizenship. The inmate is to be given an opportunity to indicate on an appropriate form whether he or she is interested to transfer to the country of citizenship.

§ 527.43 Transfer of Bureau of Prisons inmates to other countries.

(a) An inmate who is qualified for and desires to return to his or her country of citizenship for service of a sentence imposed in a United States Court shall indicate his or her interest by completing and signing the appropriate form and forwarding it to the Warden at the institution where the inmate is confined.

(b) Upon verifying that the inmate is qualified for transfer, the Warden shall forward all relevant information, including a complete classification package, to the Assistant Director, Correctional Programs Division.

(c) The Assistant Director, Correctional Programs Division shall review the submitted material and forward it to the Office of International Affairs (OIA), Department of Justice, for review.

(d) The Assistant Director, Correctional Programs Division shall ensure that the inmate is advised of the decision of OIA, Department of Justice.

(1) When the Department of Justice determines that transfer is not appropriate, the Assistant Director, Correctional Programs Division shall ensure that the inmate is advised of this determination and informed that the inmate may request the reason(s) for such action from OIA.

(2) When the Department of Justice determines that transfer is appropriate, the Assistant Director, Correctional Programs Division shall ensure that the inmate is advised of the determination and of the probability that the inmate will be given an interview with his or her nation's consular officials.

(e) Upon notification from OIA of the treaty nation's decision in regard to the inmate's transfer, the Assistant Director, Correctional Programs Division shall arrange for the inmate to be informed of that decision.

(f) At an appropriate time subsequent to notification by the Department of Justice of an inmate's approval for transfer, the Assistant Director shall arrange for the inmate to be transferred to an appropriate departure institution.

(g) Prior to the inmate's transfer to the departure institution, the inmate shall receive a verification hearing before a U.S. Magistrate or U.S. Judge to document the inmate's voluntary consent for transfer. Counsel is provided the inmate for purpose of this hearing. Where requested, the Warden shall allow counsel to interview the inmate prior to the hearing.

(h) Following the verification hearing, the Assistant Director, Correctional Programs Division shall arrange a schedule for delivery of the inmate to the authorities of the country of citizenship.

(1) The Assistant Director shall advise the Warden of those arrangements.

(2) The Warden shall arrange for the inmate to be transported to the foreign authorities. The Warden shall assure that appropriate documentation (for example, the judgment and commitment order, current progress report, summary face sheet, and proof of citizenship) accompanies each inmate transported.

§ 527.44 Transfer of state prisoners to other countries.

The Bureau of Prisons may assume custody of a state prisoner who has been approved for transfer to a treaty nation for the purpose of facilitating the transfer to the treaty nation. Once approved, the state is not required to contract for the placement of the prisoner in federal custody, nor to reimburse the United States for the cost of confinement (as would ordinarily be required by 18 U.S.C. 5003).

§ 527.45 Receiving United States citizens from other countries.

(a) Staff accepting custody of American inmates from a foreign authority shall ensure that the following documentation is available prior to accepting custody of the inmate:

(1) A certified copy of the sentence handed down by an appropriate, competent judicial authority of the transferring country and any modifications thereof;

(2) A statement (and a copy translated into English from the language of the country of origin if other than English), duly authenticated, detailing the offense for which the offender was convicted, the duration of the sentence, and the length of time already served by the inmate. Included should be statements of credits to which the offender is entitled, such as work done, good behavior, pre-trial confinement, etc.; and

(3) Citizenship papers necessary for the inmate to enter the United States.

(b) The Warden shall direct in writing specific staff, preferably staff who speak the language of the treaty nation, to transport the offender from the transporting country to the admission institution. When the admission institution is not able to accept the inmate (for example, a female inmate transported to a male institution), the Warden shall make appropriate housing arrangements with a nearby jail.

(c) As soon as practicable after the inmate's arrival at the admission institution, staff shall initiate the following actions:

(1) Arrange for the inmate to receive a complete physical examination;

(2) Advise the local U.S. Probation Office of the inmate's arrival; and

(3) Notify the U.S. Parole Commission of the inmate's arrival. Inmates returning from other countries are by law immediately eligible for parole. Staff at the admission institution shall determine if each inmate received at that institution should be retained at the admission institution for the initial parole hearing or promptly transferred to a more appropriate institution.

(d) If upon computation of sentence staff determine that an inmate is entitled to immediate release via manatory release or expiration of sentence with credits applied, release procedures shall be implemented but only after receiving a medical clearance and the results of an FBI fingerprint check.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

3. By adding Subpart L to Part 544 to read as follows:

PART 544—EDUCATION

Subpart L—Annual Survey of Inmate Education, Recreation and Library Programs

Sec.
544.110 Purpose and scope.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart L—Annual Survey of Inmate Education, Recreation and Library Programs

§ 544.110 Purpose and scope.

(a) The Bureau of Prisons has established a systematic approach for assessing the education, recreation, and library programs which operate within each Bureau of Prisons institution. Except for such community treatment centers and camps where education, recreation, and library programs may not be feasible, the Warden or the Warden's designee shall administer an annual survey to a representative sample of the local inmate population to determine inmate perception of needs, attitudes, opinions, and recommendations concerning the structure and content of the education, recreation, and library programs which operate within the institution.

(b) The questionnaire shall be administered to a minimum of 10% of each institution's inmate population on the survey date.

(c) The results of the annual survey shall be used by staff who are responsible for planning and management of the education, recreation, and library programs which operate within the institution.

4. By adding Subpart G to Part 545 to read as follows:

PART 545—WORK AND COMPENSATION

Subpart G—Incentive Awards Program, UNICOR Inmates

Sec.
545.60 Purpose and scope.
545.61 Types of incentives.
545.62 Award scales for payment for inmate suggestion or invention.
545.63 Procedures for recognition of inmate suggestion or invention.
545.64 Procedures for recognition of inmate special achievement.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4126, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart G—Incentive Awards Program, UNICOR Inmates

§ 545.60 Purpose and scope.

Federal Prison Industries, Inc. (UNICOR) provides incentives to its inmate workers for special achievements by them, as well as for their suggestions or inventions which improve operations or safety, or conserve energy or materials of Federal Prison Industries, Inc.

§ 545.61 Types of incentives.

(a) An inmate shall receive a formal (written) commendation for any suggestion or invention adopted, or for any special achievement of the inmate related to the inmate's industrial assignment. A copy of the commendation is to be placed in the inmate central file.

(b) An inmate shall receive a cash bonus for any suggestion or invention which is adopted and which contributes a net savings to Federal Prison Industries, Inc. of at least $250. Cash awards shall be based on estimated net first year savings, with a minimum award of $25.

(c) An inmate shall receive either a cash bonus or gifts for any special achievement which, under the standards below, deserves special recognition.

§ 545.62 Award scales for payment for inmate suggestion or invention.

Awards under the Inmate Incentive Awards Program for a suggestion or invention which is adopted are ordinarily provided in accordance with the following table. All awards will be rounded upward to the nearest $25.

Net Savings (First Year) and Amount of Award

$250–$1,000—$25.
$1,000–$10,000—$50 for the first $1,000 plus $2.50 for each additional $100 or fraction thereof.
$10,000–$20,000—$275 for the first $10,000 plus $2.50 for each additional $200 or fraction thereof.
$20,000–$100,000—$400 for the first $20,000 plus $2.50 for each additional $1,000 or fraction thereof.
$100,000 or more—$600 for the first $100,000 plus $2.50 for each additional $5,000, not to exceed $1,000 total cash bonus.

§ 545.63 Procedures for recognition of inmate suggestion or invention.

(a) Inmate suggestions for operational or safety improvements, or for conservation of energy or materials must be in writing.

(b) The inmate shall submit the suggestion to the inmate's immediate supervisor. The supervisor shall review the suggestion and shall then submit the suggestion, with the supervisor's comments and recommendation, to the local Superintendent of Industries.

(c) The Superintendent of Industries shall ensure that all inmate suggestions and/or inventions are considered for incentive awards by a committee comprised of Industry personnel, and designated by the Superintendent.

(1) The committee shall forward recommendations for awards for *inventions* through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Warden may submit his comments on the recommendation.

(2) The committee may approve an inmate whose suggestion is adopted for an award (cash or gifts) not to exceed $50 in value. A recommendation for an award in excess of $50 shall be forwarded through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Committee may refer a suggestion having corporate-wide implications through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Warden may submit his comments on the recommendation.

§ 545.64 Procedures for recognition of inmate special achievement.

(a) While recognition of special inmate achievements may originate from any source, the achievement is ordinarily to be described in writing by the inmate's immediate supervisor.

(b) The Superintendent of Industries shall appoint a local committee, which may include inmate participation, to consider inmates for special achievement recognition. The committee shall forward its recommendations to the Superintendent of Industries, who is authorized to approve individual awards (cash or gifts) not to exceed $50 in value. A recommendation for an award in excess of $50 (cash or gifts) shall be forwarded, with the Superintendent's recommendation and the justification for it, through the Warden to Corporate Headquarters (Attn: Associate Commissioner). The Warden may submit his comments on the recommendation.

Dated: June 8, 1981.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 81-17482 Filed 6-11-81; 8:45 am]

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June 12, 1981

Part IV

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act of 1978; Proposed Revision of Final Rules

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 500, 501, 503, 504, and 505

[Docket No. ERA-R-81-06]

Powerplant and Industrial Fuel Use Act of 1978; Proposed Revision of Final Rules

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) is proposing to revise the final rules implementing the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) to simplify the administrative procedures and exemption criteria applicable to owners or operators of new and existing powerplants and major fuel burning installations (MFBI's) which are subject to the prohibitions of the Act. The proposed rules would eliminate many of the evidentiary submissions required of petitioners requesting exemptions under the Act. For many of the exemptions, ERA has proposed a streamlined procedure which will enable a petitioner to quality for an exemption through a simple certification procedure. This notice seeks comments on the proposed revisions.

DATES: Written comments are due on or before July 27, 1981. Requests to speak at the hearing should be submitted by July 6, 1981, 4:30 p.m. Hearing date: July 14, 1981, 9:30 a.m.

ADDRESSES: All comments should be addressed to Public Hearing Management, Docket No. ERA-R-81-06, Department of Energy, Room B-210, 2000 M Street, N.W., Washington, D.C. 20461. Hearing location: Room GE086, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055.

Donald E. Kreps (Office of Regulatory Policy), Economic Regulatory Administration, Department of Energy, Room 7002, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3217.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3002, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3649.

Henry Garson (Office of the General Counsel), Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2967.

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I. Background

FUA prohibits the use of oil and natural gas in certain new and existing major fuel burning installations (MFBI's) and powerplants unless ERA grants an exemption for such use.

ERA has published final rules which (1) define MFBI, electric powerplant, and other pertinent terms (45 FR 38276 (June 6, 1980)); (2) describe the prohibitions applicable to new powerplants and MFBI's and set forth eligibility and evidentiary requirements for obtaining exemptions from such prohibitions (45 FR 38302 (June 6, 1980)); (3) describe the cost calculation required for certain exemptions under FUA (45 FR 84967 (December 24, 1980)); and (4) provide administrative procedures for applying for exemptions (45 FR 38276, 38287 (June 6, 1980)). ERA also published final rules relating to the prohibitions on oil and gas use in existing facilities and exemptions available at 45 FR 53682 (August 12, 1980). In addition, rules relating to exemptions for new and existing cogeneration facilities were issued in interim form, respectively, on May 17, 1979, 44 FR 28950, 28994, 29014, and on July 23, 1979, 44 FR 43176, 43204, 43219, and then proposed to be revised on August 11, 1980, 45 FR 53368.

On January 29, 1981, the President's Task Force on Regulatory Relief was established to:

> Reduce the burdens of existing and future regulations, increase agency accountability for regulatory actions, provide for presidential oversight of the regulatory process, minimize duplication and conflict of regulations and insure well reasoned regulations . . . (Executive Order 12291)

On March 25, the Task Force announced a list of existing regulations which should be reassessed by Executive Branch agencies, including the regulatory program under FUA.

Consistent with this directive, ERA is proposing extensive revisions of the regulations implementing FUA. Under the current regulations, obtaining an exemption from the prohibitions of the Act can be a costly and time-consuming process which has, in some respects, been criticized as unnecessarily

burdensome. The purpose of this notice of proposed rulemaking (NOPR) is to solicit comments upon revisions aimed at reducing the regulatory burden faced by the owners and operators of powerplants and MFBI's and streamlining exemption procedures under the Act.

ERA proposes to reduce the eligibility and evidentiary requirements for each of the temporary and permanent exemptions authorized under Title II of the Act. In lieu of the existing eligibility criteria, petitioners will generally be required only to certify to the statutory criteria and general requirements for an exemption; and in lieu of the existing, detailed evidentiary requirements, petitioners will generally be required to submit, together with their duly executed certifications, only those exhibits which contain the basis for the certifications, and any requisite environmental materials. Because ERA's actions on certification petitions will be subject to the public notice and comment and review provisions of the Act, a petitioner will be responsible for presenting, together with its certifications, sufficient factual and analytical material to support ERA's grant of the petition.

ERA also proposes to simplify and update the cost calculation methodology, applicable to both new and existing facilities.

ERA has received numerous requests for classification of industrial by-products with respect to their commercial unmarketability. ERA is proposing to establish a response time of sixty (60) days for issuing a decision on any such request. Expediting the procedure will allow a petitioner who requests a determination to receive a decision within a reasonable period of time.

The fuel search requirements have also been modified to reduce any uncertainty faced by petitioners. Instead of the existing fuels search requirements, petitioners who must examine fuel alternatives will only be required to examine coal or, when required to consider mixtures, to examine only coal mixtures. Where use of coal would be unreasonable, and a petitioner wishes to substitute another alternate fuel, it may request ERA's permission to do so.

II. Proposals

A. Definitions (Part 500)

1. General definitions (§ 500.2)

a. *Alternate fuel; natural gas; petroleum.* A discussion concerning ERA's determinations with respect to the commercial marketability of a fuel, appears in this Preamble under the heading "General Provisions (Subpart A)."

b. *Capability to use alternate fuel.* Section 201(a) of the Act prohibits the construction of any new powerplant without the capability to use an alternate fuel as a primary energy source.

In its current rules, 45 FR 38281 (June 6, 1980), ERA defined capability to use alternate fuel, for purposes of the foregoing Title II prohibition, as the ability to use an available alternate fuel as a primary energy source on a continuous basis in compliance with applicable environmental requirements at the time the new powerplant becomes operational or at the expiration of a temporary exemption. This definition resulted in the requirement that a new powerplant have requisite pollution control equipment installed in order to comply with the Title II construction prohibition.

To issue a prohibition order to an existing facility under Title III of FUA, ERA must make findings concerning the unit's technical capability to use an alternate fuel. In its final rules governing existing facilities, 45 FR 53697 (August 12, 1980), ERA defined technical capability to use an alternate fuel, for purposes of the prohibition order authorities under Title III of FUA, as the ability of a unit, from the point of fuel intake, to physically sustain combustion of an alternate fuel and to maintain heat transfer. This standard did not require that requisite pollution control equipment be on-line.

To reduce the burden of utility compliance with the foregoing Title II construction prohibition, ERA proposes to delete the requirement for the inclusion of required pollution control equipment in the definition of capability to use an alternate fuel. The proposed definition would treat the concept of alternate fuel capability similarly for statutory Title II prohibitions and discretionary Title III prohibitions. This proposal would relax the standard for compliance by new powerplants with Title II *construction* prohibitions, but would not affect the requirement under FUA that alternate fuels must be *used* in compliance with all applicable environmental requirements. A conforming change has been proposed in § 503.2 of the current rules, relating to prohibitions, by deleting paragraph (b) of that section.

c. *Combined cycle unit.* ERA proposes to adopt alternative definitions for "powerplant" and "MFBI" combined cycle units. The current definition will continue to be used for "MFBI" combined cycles, which, because ERA has not adopted rules prohibiting oil and gas use in non-boiler "MFBI's", are not currently subject to Title II FUA prohibitions.

For "powerplants", a new definition describing the traditional components (i.e., one or more combustion turbine units, a waste heat recovery boiler and one or more steam turbine units) of a utility combined cycle is proposed. Under this proposal, a powerplant system consisting of a combination of a combustion turbine and a waste heat recovery boiler would be treated as two individual units and not as a combined cycle unit. The result would accord similar treatment to combustion turbine/waste heat recovery boiler systems in which the direct or supplemental oil or gas firing rate is less than 100 MM Btus per hour, regardless of a system's characterization as a powerplant or an MFBI.

d. *Construction.* ERA proposes to delete the automatic classification as a new combined cycle unit of (1) an existing combustion turbine to which a new waste heat recovery or supplemental-fired boiler is added; or (2) a combustion turbine, as a heat source for an existing boiler. Such construction would instead be subject to the general "50 percent" tests already provided in the rules under the definitions of "New electric powerplant" and "New major fuel burning installation."

e. *Design capability.* ERA received several comments criticizing the definition of design capability as applied to MFBI's in its current rules. After considering these comments, ERA is proposing to add to the definition of design capability an alternative standard which would permit firms to determine design capability of an MFBI (1) on the basis of the safety valve minimum relieving capacity multiplied by the enthalpy difference of feedwater input and steam output, divided by boiler design efficiency, or (2) on the basis of the manufacturer's continuous rating multiplied by the enthalpy difference of feedwater input and steam output, divided by design efficiency.

f. *Electric powerplant and major fuel burning installation.* ERA proposes to revise these definitions to comport with its deletion of the aggregation tests, discussed further in this Preamble under the heading "Aggregation tests."

g. *Primary energy source.* ERA proposes to raise the minimum amount of oil or gas which is excluded from the definition of "primary energy source" from 15 to 25 percent. This change is proposed in response to the comments of many petitioners that often more than 15 percent oil or gas use is required for

unit ignition, startup, testing, flame stabilization, and control purposes.

ERA also proposes to revise this definition to delete the Note concerning fuels mixtures exemptions. Deletion of the Note would eliminate the requirement that petitioners include fuel use required for unit ignition, startup, testing, and flame stabilization as part of any oil and gas use allowed under a mixtures exemption.

In addition, a Note has been added to clarify that if an auxiliary unit consumes fuel only for the auxiliary functions of unit ignition, startup, testing, flame stabilization, and other control uses, its use of minimum amounts of natural gas or petroleum is not prohibited by FUA, even though the unit is an MFBI. The measurement of such minimum amounts of fuel under the current rules is discussed in *Associated Electric Cooperative*, et al., Interpretation 1980–42 (45 FR 82572 (December 15, 1980)).

h. *Rated capacity*. Sections 301 and 302 of the Act and § 504.6 of the regulations require that, to issue a final prohibition order, ERA must find that the facility will not suffer a substantial reduction in rated capacity. To clarify the basis for making this finding, ERA is proposing to add a definition of "rated capacity," which accords with the provisions of Section 504.12(d)(3)(i) of the cost calculation methodology.

2. Aggregation Tests (§§ 500.4, 500.5)

Under the current rules, facilities with fuel heat input rates of 50 million Btu's per hour or greater may be aggregated toward the 250 million Btu's per hour jurisdictional threshold for designation as an MFBI or powerplant. Therefore, facilities between 50–100 million Btu's per hour, which are not currently jurisdictional, may later become jurisdictional when, together with other facilities later constructed at the same site, the 250 million Btu's per hour level is attained. This potential for coverage of newly constructed facilities may have the unintended result of encouraging the planning of new construction at different sites even where such planning would not be consistent with prudent industry economic practice.

To avoid this problem, and in recognition of the difficulty of using alternate fuels, and the limited oil or gas savings which can currently be achieved in facilities in the 50 to 100 million Btu's per hour range, ERA is proposing to delete §§ 500.4 and 500.5, and to exclude those units with a fuel heat input rate of under 100 million Btu's per hour from aggregation, and thus, from jurisdiction under the Act. This proposed change would also apply to existing facilities.

B. Administrative Procedures and Sanctions (Part 501)

Part 501 has been simplified; and, where appropriate, certain sections of the current rules have been consolidated or combined to eliminate provisions or requirements which are repetitious or which experience has shown to be unnecessary. In addition, some sections have been clarified or modified to make them consistent with similar provisions contained in other DOE regulations pertaining to administrative procedures. Substantive changes made in individual sections are noted below.

1. General Provisions (Subpart A)

Section 501.3 remains substantially the same although much of the language of the current provision has been simplified and some subsections have been consolidated or moved to other sections. Paragraph (d) has been clarified to make clear that ERA, upon its own motion or at the request of a petitioner, may waive nonstatutory filing requirements if consistent with the purposes of FUA.

The computation of time and extension of time provisions of current §§ 501.4 and 501.5 are now contained in § 501.7. Sections 501.4 and 501.5 are reserved.

Section 501.7 has been reorganized and expanded to include the provisions of §§ 501.4 and 501.5 as mentioned above. This section also contains two new subparagraphs, designated (a)(2) and (a)(12). Subparagraph (a)(2) sets forth specific exceptions to the general rule that petitions and other documents submitted to ERA are considered filed upon receipt. The exception provides that certain documents, such as an application for modification or rescission of an order or a response to a denial of a claim of confidentiality, are considered to be filed upon mailing.

DOE has issued Ruling 1981–2 (46 FR 26605 (May 14, 1981)), clarifying the methodology for determining whether a liquid, solid or gaseous waste by-product of refinery or industrial operations or, in certain cases, natural gas, is commercially unmarketable, and hence, an alternate fuel. In light of this Ruling, ERA proposes § 501.7(a)(12), which would provide a certification procedure for requesting that a fuel be classified commercially unmarketable pursuant to the definitions of "alternate fuel", "natural gas" and "petroleum" contained in Part 500. Under this section, the owner or operator of a facility would file a request with ERA for classification of a fuel as commercially unmarketable. The request should include sufficient data to allow DOE to determine whether waste by-products are commercially unmarketable. ERA will make a decision on all such requests for classification of commercial unmarketability within sixty (60) days of receipt of each request with all accompanying data. If a waste by-product or gas is determined to be commercially unmarketable due to the inability of the producer to recover, by reasonably expected sales revenues, the costs associated with processing, storing, aggregating and distributing the waste by-product or gas, including the replacement cost of the fuel, the use of the by-product or gas as a fuel would not be prohibited by FUA. Subparagraph (a)(3)(C) of this section is designed to ensure that requests for commercial unmarketability determinations will be acted upon without undue delay.

Subparagraph (a)(11), pertaining to the procedure for requesting confidential treatment of material submitted to ERA, also contains one minor substantive change. Persons seeking confidential treatment are permitted, but no longer required, to file a statement specifying the justification for non-disclosure of the claimed confidential information, unless the information is claimed to fall within the exemption in 5 U.S.C. § 552(b)(4) for trade secrets and commercial or financial information. ERA retains the right to make its own determination with regard to any claim of confidentiality based on information at its disposal. Persons seeking confidential treatment are, however, encouraged to assist ERA in making this determination by providing information supporting the claim for confidentiality. In the absence of such information, ERA may be required by law to release the documents or data.

2. Written Comments, Public Hearings, and Conferences During Administrative Proceedings (Subpart C)

Because they also are contained in §§ 501.31(a) and 501.51(b), the provisions of current § 501.3(b), pertaining to written comments, have been deleted.

A Tentative Staff Analysis (TSA) will no longer be prepared nor will a Notice of Availability of TSA be published in the case of a petition for an exemption by certification. ERA will, however, publish Notice of Availability of Certification providing, as in the case of a TSA, 14 days for public comment on the notice. Sections 501.31 and 501.64 have been modified to reflect this change. ERA will continue to prepare a TSA and publish Notice of Availability of TSA for the temporary public interest exemption, the cogeneration exemption

based on public interest, and the non-certification environmental exemptions which are the only remaining non-certification exemptions under these proposed rules.

In addition, § 501.33(a) has been amended to reflect the modification of § 501.64. An interested person may request a public hearing in the case of a certification exemption no later than 45 days after publication of Notice of Acceptance of Petition or 14 days after publication of Notice of Availability of Certification, whichever occurs later.

3. Subpoenas, Special Reports Orders, Oaths, and Witnesses (Subpart D)

Section 501.40 is a revised combination of current §§ 501.40 and 501.41.

4. Prohibition Rules and Orders (Subpart E)

Subparagraph 501.51(b)(3) of the regulations does not permit a proposed prohibition order recipient to submit additional evidence relating to any findings that ERA is required to make after the expiration of the three month period for submission of written comments—except under certain circumstances. ERA proposes to amend this subparagraph to permit the submission of additional evidence at any time 1) prior to the close of the comment period following publication of a tenative staff analysis, or 2) prior to the close of the record of any public hearing, whichever occurs later.

This subparagraph of the regulations also requires that prohibition order recipients identify all bases for exemption quite early in the process. This requirement may unnecessarily create an excessive burden on both ERA and the order recipient. Therefore, ERA proposes to further amend this subparagraph to permit the order recipient to submit additional evidence relating to the identification of an exemption (or the circumstances under which a different exemption may be requested in the future) at any time prior to issuance of the final order.

5. Exemptions (Subpart F)

Subparagraph 501.60(a)(2) has been modified to correct the inadvertent omission in the current rules of the fact that Subpart F establishes procedures for filing petitions for permanent, as well as temporary, exemptions.

Much of current § 501.61 was considered to be unnecessary and repetitious. Portions of paragraph (a) pertaining to analyses of alternate fuels, and a simplified version of paragraph (b), pertaining to incorporation by reference, however, have been transferred to § 501.62. The remainder of § 501.61 has been deleted.

Subparagraphs (d)(1) and (2) of § 501.68, regarding the imposition of terms and conditions, have been amended. ERA proposes to limit its authority to issue terms and conditions applicable only to the unit or units which are the subject of an order granting an exemption. In addition, ERA proposes to no longer impose terms and conditions requiring the use of effective fuel conservation measures.

6. Use of Natural Gas or Petroleum for Emergency and Unanticipated Equipment Outage Purposes (Subpart M)

Under current regulations, oil and gas may be used under this Subpart, in powerplants, in order to avoid curtailment of noninterruptible electric supply to industrial customers. In some circumstances, such an event would not take place until residential consumers had been curtailed. In other situations, a utility may have no industrial customers, and so would never qualify under the emergency provisions. ERA therefore proposes to amend the definition of "minimum amounts required to alleviate or prevent," in § 501.191(c)(3)(i) and the definition of "temporary emergency condition" in § 501.192(a)(2) in order to avoid this unintended result.

C. New facilities (Part 503)

1. General Requirements for Exemptions (Subpart B)

ERA proposes to include three of the general exemption requirements, "No Alternate Power Supply" (§ 504.8), "Use of Mixtures" (§ 503.9), and "Alternative Site" (§ 503.11), within the eligibility section of each exemption to which they apply. They currently appear as part of the "Evidence required in support of a petition" subparagraphs. Under the proposed rules, petitioner will only be required to include duly executed certifications relating to each of these general requirements included in the eligibility sections.

a. *Cost calculation and fuel price computations* (§§ 503.6, 504.12 and Appendix II). Several changes are being proposed to the cost calculation, applicable to both new and existing facilities, which would (1) lessen the evidentiary burden, (2) update the inflation rate tables, and (3) remove any reference to the DOE entitlements programs (resulting from the President's decision on January 27, 1981 to decontrol domestic crude oil prices). In §§ 503.6 and 504.12, which deal with the cost calculation, ERA proposes to modify the evidence requirement to enable petitioners to (1) certify that the cost of using an alternate fuel would substantially exceed the cost of using oil as a primary energy source, and (2) submit a brief summary of the evidence to support its certification.

Under the rules presently in effect, petitioners must provide detailed accounting and back-up for all cost parameters. In addition, the present rule requires industrial installations to justify their power or steam generation schedule considering other units at the site. ERA is proposing to drop the justification for the schedule of power or steam generation (§§ 503.6(e)(6) and 504.12(e)(6)). ERA also believes that a simple certification process provides a more efficient alternative to the detailed evidentiary submissions required by the current regulations.

In the final rule governing the cost calculation, 45 FR 84971 (December 24, 1980), ERA stated that the statutory language of FUA appears to support the position that powerplants subject to the 1990 natural gas prohibition are not required to compare the cost of a replacement facility utilizing an alternate fuel to the cost of continuing to operate a natural gas-fueled powerplant since the statute refers to the cost of using coal or other alternate fuel in "such powerplant" during the period of remaining useful life.

With respect to temporary exemptions, ERA stated that "ERA has determined that the cost calculation does not require consideration of the costs associated with a replacement facility for the purpose of this exemption." It further stated that "ERA has not, however, made a final decision on whether petitioners seeking a permanent exemption must compare the cost of using an alternate fuel in a replacement facility."

Upon further consideration, ERA has determined that petitioners requesting an exemption from the 1990 off-gas provisions are not required to compare the costs of using alternate fuels in a replacement facility. As noted in the final rule, this position is supported by Subparagraph 312(a)(1)(A) of FUA, which states that an exemption shall be granted whenever "an adequate and reliable supply of coal or other alternate fuels of the quality necessary to conform with the design and operational requirements for use as a primary energy source will not be available to *such powerplant* * * * at a cost * * * which based on best practical estimates does not substantially exceed the cost * * * of using imported petroleum as a primary energy source during the remaining useful life of the *powerplant* * * *" (Emphasis added.)

ERA also intends to accept petitions for both temporary and permanent exemptions to the 1990 off-gas provisions.

Since a gas-fired unit may require very substantial derating when available alternate fuels are used, the capital investment required to make up for that derating could be considered at the option of the petitioner. If a gas-fired unit is not currently technically capable of burning alternate fuels, the capital investment required to replace the unit could also be considered at the option of the petitioner. The foregoing does not necessitate a change to the current rules, since the rules allow the petitioner to include or exclude the make-up capacity or replacement unit.

Appendix II provides the parameters to adjust a petitioner's present fuel prices for future escalations as well as to correct the cost computations for the effects of inflation. Due to the elimination of the price controls on oil, ERA is proposing to amend the equations in Appendix II to remove references to the entitlements program. In addition, ERA is proposing to update Tables II–1 and II–2 to reflect the latest projected inflation rates from the Office of Management and Budget.

ERA is not proposing to change the projections for future oil and coal prices at this time. However, ERA is requesting comment on two alternatives for treating future oil and coal prices (see Part III of this Preamble.)

b. *No alternate power supply* (§ 503.8). ERA proposes several revisions to the no alternate power supply general requirement. Most importantly, a petitioner may certify to one of two criteria: the attempted purchase of firm power for the first year of operation to cover all or part of the projected shortfall test; and the 20 percent reserve margin test. The current regulations require a demonstration of both tests and a demonstration of efforts undertaken to implement cost-effective conservation measures. As discussed below under § 503.13, ERA no longer intends to require an examination of conservation measures. In addition, in analyzing the reserve margins, ERA proposes, consistent with general industry practice, that petitioners may use electric regions, normal dispatch areas, or normal service areas.

c. *Use of mixtures* (§ 503.9). ERA proposes to revise the mixtures general requirement in two respects. First, for the same reasons discussed under the heading "Fuels Search" in this Preamble, ERA proposes to require that an exemption petitioner evaluate only the use of coal mixtures. A petitioner who wishes to substitute other mixtures combinations may do so, provided that ERA agrees to the substitution. Second, ERA proposes to streamline the procedure for meeting the mixtures general requirement to a certification, together with a statement of the basis for the certification.

d. *Alternative site* (§ 503.11). ERA proposes that when applying for any of the permanent exemptions for powerplants which require an alternative site examination, a petitioner need only certify that no reasonable alternative site exists and present the basis for the certification, including those factual and analytical materials deemed necessary by the petitioner. This proposed change would recognize that it is generally in the economic self-interest of utilities to analyze alternative sites at which alternate fuels could be used, significantly reduce the evidentiary burden on petitioning utilities, and expedite the exemption process.

ERA has also corrected the inadvertent omission of the intermediate load exemption from this requirement.

e. *Terms and conditions; compliance plans* (§ 503.12). Currently, ERA believes that it is in the economic interest of firms to undertake effective fuel conservation measures. ERA therefore proposes to limit exercise of its authority to issue terms and conditions to the unit or units which are the subject of an order granting an exemption, and to cease issuing terms and conditions which require specific conservation measures.

ERA believes that it is an unnecessary burden to require submission of a compliance plan for all temporary exemptions. ERA therefore intends to limit its exercise of this authority to the temporary use of synthetic fuels exemption, the sole exemption for which submission of a compliance plan is specifically required under Title II of the Act. ERA also proposes to delete the requirement to submit in all cases an annual update of such a plan. Conforming revisions to individual exemption sections have been included.

f. *Conservation measures* (§ 503.13). Since ERA no longer intends to attach conservation terms and conditions to the grant of an exemption petition, and in order to facilitate the exemption process, ERA proposes to delete this general requirement. ERA believes that it is in the economic self-interest of firms to undertake all reasonable conservation measures; therefore, the regulation is superfluous.

g. *Petroleum and natural gas consumption* (§ 503.14). In keeping with its proposal not to attach terms and conditions to the grant of an exemption petition which pertain to units which are not the subject of the petition, ERA proposes to delete this general requirement.

h. *Fuels search* (§ 503.16). To provide certainty, ERA proposes to clarify the fuels search requirement for certain permanent exemptions. ERA has previously indicated that it would not require a petitioner to evaluate fuels which are unreasonable to its needs, 44 FR 28951 (May 17, 1979). In ERA's continuing operational experience under the Act, coal is most often the preferred alternate fuel alternative to oil and gas. In specific applications, however, ERA recognizes that the use of alternate fuels other than coal may be viable alternatives to oil and gas use. ERA therefore proposes to require that a petitioner evaluate only the use of coal; however, where a petitioner believes that use of coal is unreasonable, and where ERA and the petitioner can reach accord, the petitioner may evaluate another alternate fuel or fuels instead. In no event, however, will a petitioner be required to evaluate any alternate fuel which is unreasonable to its needs or which has not been demonstrated to be acceptable for use in commercial applications which are comparable to its intended use.

2. Exemptions (Subparts C and D)

In an effort to reduce regulatory requirements associated with the exemption process and to avoid unnecessary and costly delays in the preparation and consideration of exemption petitions, ERA proposes to revise the evidentiary requirements to qualify for temporary or permanent exemptions under Title II of the Act.

ERA's current rules under FUA provided for a number of certification exemptions, calling for duly executed certifications to the statutory exemption criteria, together with certain minimal evidentiary submissions. To date, ERA has found this certification process to be an expeditious and efficient procedure for processing exemption petitions. Therefore, ERA proposes, wherever possible, to reduce evidentiary requirements to a certification to the eligibility criteria for an exemption, together with exhibits containing the basis for such certifications. ERA proposes that this procedure now be employed for all Title II exemptions, except the temporary public interest exemption (§ 503.25) the public interest alternative for the cogeneration exemption (§ 503.37), and the non-certification environmental exemptions (§§ 503.23, 503.34). ERA also proposes to delete the general requirements for

conservation measures and petroleum and natural gas consumption for all exemptions under Title II. In addition, as noted previously, ERA is proposing to delete the requirement that a tentative staff analysis be issued for certification exemption petitions. Petitioner's certifications would, of course, be subject to the public comment and hearing processes provided under the Act. Significant additional revisions to individual exemption sections, are described in the remainder of this Preamble.

a. *Purpose and scope* (§ 503.20). Paragraph (d) of this section currently measures the duration of any temporary exemption from the date the unit is placed in service. ERA proposes to delete this paragraph in recognition of the fact that some petitioners may seek a temporary exemption for a new unit after it is placed in service.

b. *Lack of alternate fuel supply* (§§ 503.21, 503.32). Under the alternative certification provided for MFBI's that are operated less than 600 hours on an annual basis, ERA proposes to clarify its intention to allow the petitioner to burn that amount of fuel which the facility woud require if it were operated on a *full load basis* for 600 hours. This will permit a petitioner to qualify for this certification alternative even if the installation is operated more than 600 hours per year, so long as the installation does not burn more fuel than it would require at full load for 600 hours.

C. *Site limitations* (§§ 503.22, 503.33). Instead of requiring the petitioner to demonstrate that one or more of the enumerated physical limitations cannot be overcome during the proposed exemption period, ERA proposes to use the listed items for illustrative purposes only. This amendment offers greater flexibility to the petitioner to identify and prove the substance of its site limitation claim.

d. *Inability to comply with applicable environmental requirements* (§§ 503.23, 503.34). ERA is proposing an additional method of fulfilling the evidentiary requirements for obtaining an exemption under these sections.

Under the proposed alternative, ERA will accept a certification that: (1) the facility is located in a Class I area as defined under Part C of the Clean Air Act; (2) the facility is located in a nonattainment area as defined under Part D of the Clean Air Act; or (3) even with the use of cost-effective pollution control equipment, the use of coal or other alternate fuels deemed to be available will cause or contribute to a concentration of a pollutant which exceeds the maximum allowable increases in a Class I area, or a national ambient air quality standard in a non-attainment area. This proposal recognizes that firms would generally not be able to construct alternate-fuel fired facilities to meet the very strict Clean Air Act environmental requirements in such areas.

Under this proposed certification provision, ERA seeks comment on whether it should require the consideration of trade-offs under the Clean Air Act. ERA also solicits comment on whether the certification procedure should be extended to other environmental circumstances.

e. *Future use of synthetic fuels* (§ 503.24). This revision would update § 503.24 to provide, consistent with Section 175 of the Energy Security Act, Public Law 96–294, that this temporary exemption may be granted for an initial period of up to 10 years.

f. *Public interest* (§ 503.25). In the interest of brevity, and since each petition will be evaluated on a case-by-case basis, ERA proposes to delete the Policy Note in this section.

g. *Inability to obtain adequate capital* (§ 503.35). In the case of a powerplant, the current regulation requires a utility system with a generating capacity greater than or equal to 2000 megawatts to demonstrate, on a parent company basis, that the specific restrictions which constrain the utility's ability to raise debt or equity capital could not be alleviated by any future action of the public utility commission or other regulatory authority. It has been suggested that this requirement may be perceived as constituting an unwarranted Federal intrusion into State ratemaking authority. ERA proposes to delete this requirement based upon its determination that it unnecessarily restricts the availability of the exemption.

h. *Cogeneration* (§ 503.37). ERA proposes to combine interim rule exemption provisions for installations and powerplants found in §§ 503.37 and 505.27 into one section.

For the oil or gas savings criterion for establishing eligibility, ERA proposes a certification procedure. For the alternative public interest criterion, ERA would require an explanation of the public interest factors which a petitioner believes are sufficient to support grant of its exemption.

The foregoing revisions are proposed in the interest of reducing regulatory burdens. On August 11, 1980, 45 FR 53368, ERA proposed substantive revisions to the cogeneration exemption sections. Consideration of the testimony and public comments on that NOPR is proceeding under the separate Docket No. ERA–R–80–24.

i. *Fuel mixtures* (§ 503.38). ERA proposes to disassociate the amount of oil or gas permitted to be used in a mixture under this exemption from the presumed 25 percent exclusion from the definition of "primary energy source" (§ 500.2) of oil and gas used for unit ignition, startup, testing, flame stabilization and control. This proposal is based on the recognition that economic forces will generally act to minimize the percentage of oil or gas used in a mixture, since a user can be expected to offset the high price of oil or gas by increasing the percentage of less expensive coal wherever feasible. Thus, a facility receiving a mixtures exemption would be permitted to burn the amount of oil or gas permitted under the order granting the exemption in addition to any fuel which is used for the ignition, startup, testing, flame stabilization, and control purposes identified under the definition of primary energy source.

j. *Impairment of reliability* (§ 503.40). Current regulations impose terms and conditions on the reliability exemption such that the unit is allowed to operate only during the period of the reliability impairment. Thus, when the reliability problem no longer exists, the unit would have to cease operation under this exemption. ERA proposes to delete these terms and conditions.

The current rules also impose eligibility requirements which state that the electric region in which the utility is located must have an impairment of reliability measured by Loss of Load Probability (LOLP). These LOLP standards vary from one day in one year to one day in five years, depending on the date of the commencement of operation. ERA proposes to adopt a uniform LOLP standard of one day in ten years, which is both more fuel efficient and more widely accepted in the utility industry as a measure of impaired reliability.

k. *Peakload powerplants* (§ 503.41). Under the current rules for this exemption, a petitioner is required to certify that the powerplant would be operated solely as a peakload powerplant and only to meet peakload demand for its remaining life. Some commenters felt that the latter requirement exceeded the bounds of ERA's discretion under the Act. Others indicated that the added requirement that an exempted peakload unit only be operated to meet peakload demand, was inconsistent with the historical use of peakload units to meet other contingencies, such as forced outages and maintenance periods.

ERA proposes to delete the explicit regulatory requirement that a peakload unit be operated solely to meet peakload demand. ERA believes that the requirement that a unit be operated solely as a peakload powerplant, as defined in section 103(a) of the Act (i.e., its electrical generation in kilowatt hours does not exceed, for any 12-month period, design capacity multiplied by 1500 hours), will be sufficient to meet the statutory criteria for this exemption. This revision would comport with the purposes of the Act, by eliminating an unnecessary, and potentially inefficient constraint on recipients of the peakload exemption.

In addition, the present rules provide a certification process for combustion turbine peaking units and a more complex evidentiary process for other types of peakload units. ERA proposes that petitions for the peakload exemption be by certification irrespective of the type of unit, since the statute does not distinguish among various types of peakload units.

1. Intermediate Load Powerplant (§ 503.42)

ERA proposes to greatly reduce and simplify the evidentiary requirements for this exemption. ERA believes that the certification approach proposed to be adopted, makes unnecessary submission of the detailed affidavits called for in the final rules.

D. Existing Facilities (Part 504)

In addition to the cost calculation revisions discussed earlier in this Preamble, ERA believes that the language of § 504.6(d) which excludes consideration of Pollution Control and coal handling equipment in determining substantial physical modification may be too restrictive, and proposes to amend paragraph 504.6(d) to permit such considerations.

III. Additional Comments Requested

ERA is not at this time proposing to revise its rules with respect to the following matters, but solicits comments on how these additional matters would affect its implementation of the Act. In addition, ERA solicits comments on any other issues of concern to the public related to DOE's regulatory program implementing the Act. Such comments may address existing as well as new facilities. In particular, ERA solicits comments on whether other fuels should be added to the current regulatory definition of "Alternate fuels" in Part 500.

A. Cost Calculation

ERA is proposing two alternatives to the use of the fuel price indices and associated escalation rates now contained in Tables II–1 and II–2 and required in the cost calculations (§§ 503.6 and 504.12). the first proposal recognizes the very uncertain nature of estimating future fuel prices relative to present prices and to the prices of other fuels. The second proposal explicitly allows for the possibility of regional differences in coal prices.

The "no escalation" alternative would require the petitioner to use unescalated fuel prices for both oil and coal without regard to anticipated real or relative price changes which might occur over the useful life of the unit.

The "own coal rate" alternative would permit the petitioner to use his own substantiated escalation rates for coal rather than those provided by ERA. He would still be required to use the ERA-specified oil rates. The need for some reasonable justification of these rates, however, may be incompatible with the certification process being proposed elsewhere in this NOPR.

B. Lack of Alternate Fuel Supply—(600 Hour Certification)

ERA is requesting comments on and justifications for replacement of the 600 hour certification exemption available to MFBI's (§ 503.21(c)) with (1) the granting of this exemption by rule rather than by order, (2) substitution in the certification exemption of a sliding scale of maximum allowable hours of use depending on unit size, or (3) replacement of the 600 hour maximum with a different number.

The first alternative would remove the exemption petition burden from those units operating less than 600 hours per year. The second alternative would explicitly recognize that a smaller unit can operate more hours and still qualify for an exemption due to cost. The third would change the annual maximum for all qualifying units to reflect relative changes in the cost of coal and oil/gas units since the 600 hour figure was adopted.

C. Imported Petroleum

In the current regulations, the definition of "Cost of petroleum or natural gas" in Part 500 requires that these fuels always be priced at the cost of imported petroleum, regardless of the specific application of the term. ERA, solicits comment on the appropriateness of deleting this definition and requiring that the imported petroleum cost standard only be applied when the cost calculations (§§ 503.6 and 504.12) are used to determine eligibility for a temporary or permanent exemption by reason of cost (§§ 503.21, 503.32, 504.31, and 504.51). In other instances where a net present value calculation is used (e.g., financial feasibility finding), the actual cost fo fuel, not the cost of imported petroleum, could then be used. This change, if adopted, would require conforming language changes in the financial feasibility finding (§ 504.6(j)).

IV. Other Administrative Matters

A. Synthetic Fuels

ERA is concerned that current regulatory language of the synthetic fuels exemption (§ 503.24) may result in a dampening effect upon synthetic fuels development. Consistent with the purposes of the Act, ERA intends to interpret the language requiring the demonstration of a binding contract in a manner most likely to encourage synthetic fuels development.

B. Scheduling of Effective Dates for Prohibition Orders

Section 501.51(c)(2) of the current rules permits ERA some discretion in determining effective dates of final prohibition orders. ERA recognizes that many utilities face severe cash flow restrictions and believes that in some instances scheduling of other expenditures should cause ERA to consider allowing changes in effective dates in order to reflect this situation.

C. Temporary and Permanent Exemptions

A facility covered by the grant of an exemption under FUA will be deemed to be in compliance with applicable prohibitions, within the meaning of Sections 214 and 314 of The Act. A petitioner may therefore seek to qualify, concurrently, for a temporary exemption, to be followed by a permanent exemption, where compliance with applicable prohibitions can be demonstrated by its qualification for the permanent exemption at the expiration of the temporary exemption.

V. Procedural Matters

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the issues addressed in this NOPR, and any other issues of concern related to DOE's regulatory program implementing the Act. Comments should be identified on the outside envelope and on the documents submitted with the designation: "Powerplant and Industrial Fuel Use

Act" Docket No. ERA–R–81–06. Fifteen copies should be submitted. All comments received will be available for public inspection in the ERA Office of Public Information, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. All comments received on or before July 27, 1981, will be considered.

If you wish to submit any information or data which you consider to be confidential, you must comply with DOE's freedom of information regulations (10 CFR Part 1004). DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

To facilitate ERA's review of comments, ERA requests that, to the extent possible, any person submitting comments identify each issue commented upon by the appropriate section number of the regulations and submit comments applicable to each such section on a separate page.

B. Public Hearings

The date and location for the public hearing are set forth at the beginning of this Preamble.

You may make a written request for an opportunity to make an oral presentation at the public hearing. If so, you should describe the interest concerned; if appropriate, state why you are a proper representative of a group or class of persons that has such an interest; and provide a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing. If you are selected to be heard at the hearing, ERA will notify you before 4:30 p.m., July 8, 1981. You are requested to make 100 copies of your statement available at the time and place of the hearing.

ERA reserves the right to select the persons to be heard at the hearing (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may also submit questions to be asked of any person making a statement at the hearing to the address indicated above by 4:30 p.m., July 13, 1981. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by ERA and made available for inspection in the DOE Freedom of Information Office, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., and in the ERA Office of Public Information, Room B–110, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

C. Section 102 of the National Environmental Policy Act (NEPA)

DOE has determined that this regulation, as proposed, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this proposal is not required under 10 CFR Part 208.

D. Regulatory Flexibility Act

DOE has determined that these proposals, if adopted, will not negatively impact firms that are "small entities" within the meaning of the Regulatory Flexibility Act. Therefore, DOE is not required to publish an initial regulatory flexibility analysis pursuant to Section 603 of that Act.

E. Executive Order No. 12291

Section 8(b) of Executive Order No. 12291 (46 FR 13193 (February 19, 1981)), authorizes the Director of the Office of Management and Budget (the "Director") to exempt any class or category of regulations from any or all requirements of that Executive Order. DOE has obtained an exemption for these Proposed Regulations.

F. Federal Reports Act

When finalized, these rules must be submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any data submitted in compliance with provisions of the final rule may require revision or additions as a result of OMB's action.

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*), Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); Energy Security Act, Pub. L. 96–294, 94 Stat. 611; E.O. 12009, 42 FR 46267, September 15, 1977)

In consideration of the foregoing, Parts 500, 501, 503, 504 and 505, Subchapter E, "Alternate Fuels" of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C. on the 9th of June, 1981.

James B. Edwards,

Secretary.

PART 500—DEFINITIONS

For the reasons set out in the preamble, Part 500 of Chapter II, Title 10 of the *Code of Federal Regulations* is proposed to be amended as shown.

§ 500.2 [Amended]

(1) In § 500.2 by amending the definitions of "Alternate fuel," "natural gas," and "petroleum" to add at the end of each such definition the following Note:

Note.—DOE has issued Ruling 1981–2 (46 FR 26605 (May 14, 1981)), clarifying the methodology for determining whether a liquid, solid or gaseous waste by-product of refinery or industrial operations, or, in certain cases, natural gas, is commercially unmarketable.

(2) By revising the definition of "Capability to use alternate fuel" in § 500.2 to read as follows:

"Capabilitity to use alternate fuel," for the purpose of the Title II prohibition relating to construction of new powerplants, means the powerplant to be constructed must have the ability, from point of fuel intake, to physically sustain combustion of an alternate fuel and to maintain heat transfer. This alternate fuel must be available to the operator at the facility site at the time it becomes operational or at the expiration of a temporary exemption.

Example: ERA will examine the furance configuration and ash removal capability but will not normally consider the need to install pollution control equipment as a measure of capability to use alternate fuel. Furthermore, ERA will not conclude that the absence of fuel handling equipment, such as conveyor belts, pulverizers, or unloading facilities, bears on the issue of a unit's capability to burn an alternate fuel.

(3) By revising the definition of "Combined cycle unit" in § 500.2, to read as follows:

"Combined cycle unit" means

(1) For a powerplant, an electric power generating unit that consists of a combination of one or more combustion turbine units and one or more steam turbine units with a substantial portion of the required energy input of the steam turbine(s) provided by the exhaust gas from the combustion turbine unit(s). Use of small amounts of supplemental firing for the steam turbine does not preclude the unit from being a combined cycle unit or

(2) For a major fuel burning installation, a unit that consists of a combination of one or more combustion turbine units and one or more waste heat boilers with a substantial portion of the required energy input to the waste heat boiler provided by the exhaust gas from the combustion turbine unit(s).

(4) By amending the definition of "Construction" in § 500.2 by ending the definition after the term "foundation pilings" at the end of the first sentence.

(5) By amending the definition of "Design capability" in § 500.2 by revising paragraph (2) to read as follows:

"Design capability" shall be determined as follows:

(1) * * *

(2) For a major fuel burning installation, defined in Section 103(a)(10) of FUA, the fuel heat input rate of a boiler (Btu/hr) shall be deemed, at the option of the owner or operator, to be either:

(i) the safety valve minimum relieving capacity (lbs/hr) multiplied by the enthalpy difference (Btu/lb) of feedwater input and steam output, divided by the boiler design efficiency (decimal) for the fuel. For the purpose of the definition, the safety valve capacity shall be determined in accordance with the current American Society of Mechancial Engineers Boiler and Pressure Vessel Code; or

(ii) The manufacturer's continuous rating (lb/hr) multiplied by the enthalpy difference (Btu/lb) of feedwater input and steam output divided by the design efficiency (decimal) for the fuel. For the purpose of this definition the manufacturer's continuous rating (MCR) is defined as the maximum load in pounds of steam per hour for which the boiler is designed to operate over a period of time.

(6) In § 500.2 by revising the definitions of "Major fuel burning installation" and "Electric powerplant" to read as follows:

"Electric powerplant" means any stationary electric generating unit consisting of (1) a boiler, (2) a gas turbine, or (3) a combined cycle unit which employs a generator to produce electric power for purposes of sale or exchange and has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater. In accordance with Section 103(a)(7)(C) of FUA, the Secretary has determined that it is appropriate to exclude from this definition any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour.

"Major fuel burning installation" means a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine that has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater. This definition does not include:

(1) Any electric powerplant;

(2) Any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only upon the filing of a written certification of such use with ERA in accordance with procedures specified in §§ 501.7 and 501.11 of the regulations. Such certification must be made only for such pumps and compressors which are driven by units with a design fuel heat input rate of 100 million Btu's per hour or greater and which consume petroleum or natural gas. The following information is required:

(i) Unit size in Btu input;

(ii) Equipment function; and

(iii) Geographic location of the unit; or

(3) Steam generators used for crude oil recovery.

Note.—For purposes of clause (2)(ii), also excluded from jurisdiction under the Act is any boiler, combustion turbine, combined cycle unit, or internal combustion engine used to drive pumps and compressors for such purposes, if ninety (90) percent or more of the energy output is used to drive the pumps and compressors.

In accordance with Section 103(a)(10)(C) of FUA, the Secretary has determined that it is appropriate to exclude from this definition any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour.

(7) By revising the definition of "Primary energy source" in § 500.2 to read as follows:

"Primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel burning installation, except:

(1) Minimum amounts of fuel, not to exceed twenty-five (25) percent, unless otherwise demonstrated, of the total annual Btu heat input of the unit, required for unit ignition, startup, testing, flame stabilization, and control uses; and

(2) Minimum amounts of fuel required to alleviate or prevent:

(i) Unanticipated equipment outages as defined in § 501.191 of these regulations; and

(ii) Emergencies directly affecting the public health, safety, or welfare that would result from electric power outages as defined in § 501.191 of these regulations.

Note.—(1) Any fuel excluded under the provisions of subparagraph (1) of this definition, is in addition to any fuel authorized to be used in any order granting a fuel mixtures exemption under Parts 503 and 504 of these rules. (2) If an auxiliary unit consumes fuel only for the auxiliary functions of unit ignition, startup, testing, flame stabilization, and other control uses, its use of minimum amounts of natural gas or petroleum is not prohibited by FUA, even though the unit is an MFBI. The measurement of such minimum amounts of fuel under the current rule is discussed in *Associated Electric Cooperative*, et al., Interpretation 1980-42 (45 FR 82572 (December 15, 1980)).

(8) By adding a definition of "Rated capacity" in § 500.2 to read as follows:

"Rated capacity", for the purpose of determining reduction in the rated capacity of an existing powerplant, means design capacity, or, at the election of the powerplant owner or operator, the actual maximum sustained energy output per unit of time that could be produced, measured in kilowatts.

§§ 500.4 and 500.5 [Removed]

(9) By removing §§ 500.4 and 500.5.

PART 501—ADMINISTRATIVE PROCEDURES AND SANCTIONS

For the reasons set out in the preamble, Part 501 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown:

1. By revising §§ 501.2 and 501.3 to read as follows:

§ 501.2 Prepetition conference.

(a) Owners and operators of powerplants and MFBI's may request a prepetition conference with ERA for the purpose of discussing and applicability of 10 CFR Parts 503, 504, and 508 to their situations and the scope of any exemption or other petition that ERA would accept as adequate for filing purposes.

(b) The owner or operator who requests a prepetition conference may personally represent himself or may

designate a representative to appear on his behalf. A prepetition conference or a request for a prepetition conference does not commence a proceeding before ERA.

(c) If ERA agrees to waive any filing requirements under 10 CFR 501.3(d), a memorandum or record stating this fact will be furnished to the potential petitioner within thirty (30) days after the conference. Copies of all applicable memoranda of record must be attached to any subsequently-filed petition.

(d) A record of all prepetition conferences will be included in the public file. ERA may provide for the taking of a formal transcript of the conference and the transcript will be included in the public file.

§ 501.3 Petitions.

(a) *Filing of petitions.* Petitions for exemptions are to be filed with ERA at the address given in 10 CFR 501.11. Upon acceptance (as opposed to filing) of the petition, ERA shall notify the public by **Federal Register** publication that an exemption proceeding has begun.

(b) *Acceptance of petition.* (1) ERA will notify each petitioner in writing within thirty (30) days of receipt of the petition that it has been accepted or rejected and, if rejected, the reasons therefor.

(2) A petition, including supporting documents, will be accepted if the information contained appears to be sufficient to support an ERA determination. Additional information may be requested during the course of the proceeding, and failure to respond to such a request may ultimately result in denial of the requested exemption.

(3) Acceptance of a petition does not constitute a determination that the requested exemption will be granted.

(c) *Rejection of petition.* (1) ERA will reject a petition if it does not meet the information or certification requirements established for the relevant exemptions under Parts 503, 504, and 508. A written explanation of the reasons for rejection will be furnished with notification of the rejection.

(2) A timely-filed petition rejected as inadequate will not be rendered untimely if resubmitted in amended form within ninety (90) days of the date of rejection.

(3) ERA will, within thirty (30) days of receipt of a petition that is found to be incomplete due to minor deficiencies, notify the petitioner of the deficiencies and allow ninety (90) days from the date of notification to cure the specified deficiencies. The failure to cure the deficiencies during this time may result in denial of the requested exemption.

(d) *Waiver of filing requirements.* Upon its own motion or at the request of a petitioner, ERA may waive some or all of the regulatory requirements if the purposes of FUA would be best achieved by doing so.

2. By removing and reserving §§ 501.4 and 501.5 as follows:

§ 501.4 [Reserved]

§ 501.5 [Reserved]

3. By revising § 501.7 to read as follows:

§ 501.7 General filing requirements.

Except as elsewhere indicated otherwise, all documents required or permitted to be filed with ERA or DOE in connection with a proceeding under 10 CFR Parts 503, 504, and 508 shall be filed in accordance with the following provisions:

(a) *Filing of documents.*

(1) Documents including, but not limited to, applications, requests, complaints, petitions (except petitions for exemption), and other documents submitted in connection therewith, filed with ERA are considered to be filed upon receipt.

(2) Notwithstanding the provisions of paragraph (1), an application for modification or rescission in accordance with Subpart G of this Part, a reply to a notice of violation, a response to denial of a claim of confidentiality, or a comment submitted in connection with any proceeding transmitted by registered or certified mail and addressed to the appropriate office is considered to be filed upon mailing.

(3) *Timeliness.* Documents are to be filed with the appropriate DOE or ERA office listed in 10 CFR 501.11. Documents received after regular business hours are deemed filed on the next regular business day. Regular business hours are 8 a.m. to 4 p.m.

(4) *Computation of time.* In computing any period of time prescribed or allowed by these regulations or by an order, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(5) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time and the order, notice, interpretation or other document is served by mail, three (3) days shall be added to the prescribed period.

(6) *Extension of time.* When a document is required to be filed within a prescribed time, an extension of time to file may be granted upon good cause shown.

(7) *Signing.* All applications, petitions, requests, comments, and other documents that are required to be signed, shall be signed by the person filing the document or a duly authorized representative. Any application, petition, request, complaint, or other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an ERA form otherwise requires. (A false certification is unlawful under the provisions of 18 USC 1001 (1970).)

(8) *Labeling.* An application, petition, or other request for action by DOE or ERA should be clearly labeled according to the nature of the action involved, e.g., "Petition for Temporary Exemption," "Petition for Extension (or Renewal) of Temporary Exemption," both on the document and on the outside of the envelope in which the document is transmitted.

(9) *Obligation to supply information.* A person who files an application, petition, complaint, or other request for action is under a continuing obligation during the proceeding to provide DOE or ERA with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, or request for action that is subsequently filed by that person with any DOE office or ERA office.

(10) *The same or related matters.* A person who files an application, petition, complaint, or other request for action by DOE or ERA shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any DOE or ERA office, other Federal agency, department or instrumentality; or by a State office, a State or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with any proceeding described in this Part. In addition, the person shall state whether contact has been made by the person or one acting on his behalf with any person who is employed by DOE or ERA with regard to the same issue, act or transaction or a related issue, act, or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was

verbal or in writing; the nature and substance of the contact; and the date or dates of the contact.

(11) *Request for confidential treatment.* (i) If any person filing a document with DOE or ERA claims that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 USC 552); is information referred to in 18 USC 1905; or is otherwise exempt by law from public disclosure, and if such person requests DOE or ERA not to disclose such information, such person shall make a filing in accordance with paragraph (b)(2) below. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for nondisclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 USC 552(b)(4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If a document is not so filed, ERA may assume that there is no objection to public disclosure of the document in its entirety.

(ii) DOE or ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by DOE or ERA to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than seven (7) days prior to its public disclosure.

(iii) The above provisions (A–B) do not apply to information submitted on ERA forms that contain their own instructions concerning the treatment of confidential information.

(12) *Request for classification of fuel as commercially unmarketable.*

Note.—DOE Ruling 1981–2 (46 FR 26605 (May 14, 1981)), contains a discussion of the criteria for determining the commercial unmarketability of liquid, solid or gaseous waste by-products, and, in certain cases, natural gas under FUA.

(i) *Filing of request.* The owner or operator of a powerplant or installation may file a request for classification of a fuel as commercially unmarketable at the address provided in § 501.11.

(ii) *Contents of request.* A request for classification of a fuel as commercially unmarketable pursuant to the definitions of "Alternate fuel," "Natural gas," and "Petroleum," contained in 10 CFR Part 500 should include a duly executed certification containing the following:

(A) Name of requester.

(B) Identification and location of unit in which the fuel is proposed to be burned.

(C) The calculations made concerning the costs and revenues involved in assessing the commercial marketability of the fuel and the methodology used to make the calculations, including an explanation of the numbers used; and

(D) The Name, address, and telephone number of the person who can supply addition information.

(iii) *Decision on request.* ERA will acknowledge receipt of a request and will render a decision within 60 days of the date of the acknowledgement.

(13) *Separate applications, petitions or requests.* Each application, petition, or request for DOE or ERA action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act, or transaction, or are submitted in connection with the same proceeding.

(b) *Number of documents to be filed.*

(1) A petitioner must file an executed original and fourteen (14) copies of all documents submitted to ERA.

(2) Where the petitioner requests confidential treatment of some or all of the information submitted, an original and eleven (11) copies of the confidential document and three (3) copies of the document with confidential material deleted must be filed.

4. By revising §§ 501.31 and 501.32 to read as follows:

§ 501.31 Written comments.

Except as may be provided elsewhere in these regulations, ERA shall provide a period of at least forty-five (45) days, commencing with publication of the Notice of Acceptance of Petition in the **Federal Register** in accordance with 10 CFR 501.63(a), for submission of written comments concerning a petition for an exemption. ERA also shall provide a period of at least fourteen (14) days for submission of written comments concerning a tentative staff analysis or certification commencing with publication of the Notice of Availability of Tentative Staff Analysis or Certification in the **Federal Register.** The period may be extended by ERA in accordance with 10 CFR 501.7(a)(6). (See 10 CFR 501.51(b) with respect to the comment periods applicable to prohibitions by order to existing facilities and the extension of such comment periods.) Written comments shall be filed in accordance with 10 CFR 501.7.

§ 501.32 Conferences (other than prepetition conferences).

Conferences, other than prepetition conferences, will be convened and conducted in accordance with 10 CFR 205.171.

5. By revising paragraph (a) and adding paragraph (c) to § 501.33 to read as follows:

§ 501.33 Requests for a public hearing.

(a) *New Facilities.* Any interested person may submit a written request that ERA convene a public hearing in accordance with Section 701 of FUA—

(1) No later than fourteen (14) days after the publication of a Notice of Availability of Tentative Staff Analysis; or

(2) In the case of a certification exemption, no later than 45 (forty-five) days after publication of the Notice of Acceptance of Petition, or 14 (fourteen) days after publication of a Notice of Availability of Certification, whichever occurs later.

These time periods may be exended at the discretion of ERA.

* * * * *

(c) *Contents of request.* A request for a public hearing must include a description of the requesting party's interest in the proceeding and a statement of the issues involved. The request should, to the extent possible, identify any witnesses that are to be called, summarize the anticipated testimony to be given at the hearing, and outline questions that are to be posed.

6. By revising § 501.40 to read as follows:

§ 501.40 Issuance.

(a) As authorized by Section 711 of FUA and Section 645 of the DEOA, the Administrator, his duly authorized agent or a presiding officer may, in accordance with 10 CFR 205.8, sign, issue, and serve subpoenas; issue special report orders (SRO); administer oaths and affirmations; take sworn testimony, compel attendance of and sequester witnesses; control the dissemination of any record of testimony taken pursuant to this section; and subpoena and reproduce books, papers, correspondence, memoranda, contracts, agreements, or other relevent records of tangible evidence including, but not limited to, information retained in computerized or other automated systems in the possession of the subpoenaed person.

(b) *Petition to withdraw or modify.* Prior to the time specified for compliance in the subpoena or SRO, the person to whom the subpoena or SRO is directed may apply for its withdrawal or

modification as provided in 10 CFR 205.8, except that if the subpoena or SRO is issued by a duly appointed presiding officer, the request to withdraw or modify must be addressed to that presiding officer, and its grant or denial will be decided by him.

7. By removing and reserving § 501.41 as follows:

§ 501.41 [Reserved]

8. By revising paragraph (b) (3) and (5) of § 501.51 to read as follows:

§ 501.51 Prohibition by order-existing facilities.

* * * * *

(b) * * *

(3) ERA shall provide a period for the submission of written comments of at least three months after the date of the proposed order. During this period, the recipient of the proposed order and any other interested person must submit any evidence that they have available at that time relating to each of the findings that ERA is required to make under Section 301(b) of the Act in the case of a powerplant or the findings required by Section 302(a) of the Act in the case of an installation. A proposed order recipient may submit additional new evidence at any time prior to the close of the public comment period which follows publication of the tentative staff analysis or prior to the close of the record of any public hearing, whichever occurs later. The order recipient must, during this period, identify any exemptions for which the unit in question may qualify, or the circumstances under which an exemption might be required, but the recipient need not during this period submit evidence attempting to demonstrate qualifications for the exemption. Petitioner may present evidence relating to the exemption prior to the issuance of a final order. A request by the proposed order recipient for an extension of the three month time period may be granted at ERA's discretion.

* * * * *

(5) An owner or operator of a facility that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the facility would qualify for an exemption if the prohibition had been established by rule. Such demonstration shall be submitted within three months of the issuance of the notice of intention to proceed with the prohibition order. ERA will not delay the issuance of a final prohibition order or stay the effective date of such an order for the purpose of determining whether a proposed order recipient qualifies for a particular exemption unless the demonstration or qualification is submitted prior to or during the second three-month period, or unless materials submitted after the period (i) could not have been submitted during the period through the exercise of due diligence, (ii) address material changes in fact or law occurring after the close of the period, or (iii) consist of amplification or rebuttal occasioned by the subsequent course of the proceeding. A request by the proposed order recipient for an extension of this time period may be granted at ERA's discretion.

* * * * *

9. By revising paragraph (a)(2) of § 501.60 to read as follows:

§ 501.60 Purpose and scope.

(a) * * *

(2) If the petitioner plans to construct or owns, operates, or controls a new MFBI other than a boiler and such unit is subject to a prohibition by order or rule, this subpart establishes the procedures for filing a petition requesting a temporary or permanent exemption under, respectively, Sections 211 and 212 of FUA.

* * * * *

10. By removing and reserving § 501.61 as follows:

§ 501.61 [Reserved]

By adding paragraph (i) to § 501.62 as follows:

§ 501.62 Petition contents.

* * * * *

(i) *Incorporation by reference.* Pertinent information may be incorporated into the petition by reference when this can be done without impeding agency and public review. Referenced materials must be specifically identified and their contents briefly described in the petition. To incorporate by reference, the material must be submitted with the petition, or if previously submitted, the office to which it was submitted must be identified in the petition. The petitioner cannot incorporate by reference material based on proprietary data not available to ERA for review.

12. By revising §§ 501.63 and 501.64 to read as follows:

§ 501.63 Notice of the commencement of an administrative proceeding on an exemption petition.

(a)(1) When a petition is accepted, ERA will publish a notice in the **Federal Register** that an exemption proceeding has commenced. The notice will include a summary of the exemption petition, and publication will commence a public comment period of no less than 45 days during which interested parties may file written comments concerning the petition.

(2) ERA also will notify the appropriate State agency having apparent primary authority to permit or regulate the construction or operation of a powerplant, or any State agency with similar authority over an MFBI, that an exemption proceeding has been commenced and will consult with these agencies to the maximum extent practicable. Copies of all accepted petitions will be forwarded to the Administrator of the EPA, and, if the unit involved is an MFBI, to the Federal Trade Commission.

(b) In processing an exemption petition, ERA shall comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's implementing regulations, and the DOE guidelines implementing those regulations (45 FR 20694 (March 28, 1980)). Compliance with NEPA may involve the preparation of (1) an environmental impact statement (EIS) evaluating the grant or denial of an exemption petition, (2) an environmental assessment (EA), or (3) a memorandum to the file finding that the grant of the requested petition would not be considered a major federal action. If an EIS is required, ERA will publish in the **Federal Register** a Notice of Intent (NOI) to prepare an EIS as soon as practicable after commencement of the proceeding. A public meeting may be held pursuant to 40 CFR 1501.7 to solicit comments or suggestions on the structure and content of the EIS.

§ 501.64 Publication of notice of availability of tentative staff analysis or certification.

ERA will publish in the **Federal Register** a Notice of the Availability of Tentative Staff Analysis for the temporary public interest exemption, for non-certification environmental exemptions, and for a cogeneration exemption based on the public interest; or, in the case of a certification exemption, a Notice of Availability of Certification. ERA will provide a public comment period of at least fourteen (14) days from the date of publication during which interested persons may make written comments and request a public hearing.

13. By revising paragraph (b) of § 501.66 to read as follows:

§ 501.66 ERA evaluation of the record, decision and order.

* * * * *

(b) ERA may investigate and corroborate any statement in any petition, document, or public comments submitted to it. ERA also may use any relevant facts it possesses in its evaluation and may request submissions from third persons relevant to the petition or other document. ERA also may request additional information, data, or analyses following a public hearing, if any, if this information is necessary to resolve disputed issues in the record. Any information received by ERA following the hearing that is not declared to be confidential under 10 CFR 501.7(a)(11) shall be made part of the public record with opportunity provided for rebuttal.

14. By revising paragraph (d) of § 501.68 to read as follows:

§ 501.68 Decision and order.

* * * * *

(d)(1) ERA may include in any order granting a petition for exemption, except an order granting an exemption under Section 401 of FUA, such terms and conditions as it determines to be appropriate.

(2) ERA may design any terms and conditions included in any temporary exemption issued or extended under Sections 211 and 311 of FUA, to ensure, among other things, that upon expiration of the exemption the persons and powerplant or installation covered by the exemption will comply with the applicable prohibitions under FUA.

15. By revising § 501.100 to read as follows:

§ 501.100 Purpose and scope.

(a) This subpart provides the procedures to be followed by—

(1) An interested person seeking the modification or rescission of a prohibition by rule applicable to a new facility;

(2) An owner or operator of a facility named in a prohibition by rule requesting the modification or rescission of that rule; or

(3) An owner or operator subject to an exemption order or a specific prohibition imposed by order requesting the modification or a rescission of that order.

(b) ERA also may commence a modification or rescission proceeding on its own initiative.

* * * * *

16. By revising paragraph (b)(1) of § 501.133 to read as follows:

§ 501.133 DOE evaluation.

* * * * *

(b) *Criteria.* (1) DOE will base its FUA interpretations on the DEOA and FUA, as applicable, and the regulations and published rulings of DOE as applied to the specific factual situation presented.

* * * * *

17. By revising paragraph (c)(3)(i) of § 501.191 to read as follows:

§ 501.191 Use of natural gas or petroleum for certain unanticipated equipment outages and emergencies defined in section 103(a)(15)(B) of the act.

* * * * *

(c) * * *

(3) * * *

(i) For powerplants, the amounts of natural gas or petroleum required to prevent curtailment of electric supply where the operating utility has, to the maximum extent possible, utilized alternate fuel-fired capacity to prevent such curtailment; and

* * * * *

18. By revising paragraph (a)(2) of § 501.192 to read as follows:

§ 501.192 Use of natural gas or petroleum during a temporary emergency condition pursuant to section 404(g) of the act.

(a) * * *

(2) For peakload powerplants, a curtailment of electric supply would be likely to result.

* * * * *

PART 503—NEW FACILITIES

For the reasons set out in the preamble, Subpart A of Part 503 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown:

§ 503.2 [Amended]

[1] By removing paragraph (b) from § 503.2.

For the reasons set out in the preamble, Subpart B of Part 503 and Subpart C of Part 504 of Chapter II, Title 10 of the Code of Federal Regulations are proposed to be amended as shown.

§ 503.6 State approval required for powerplant.

(1) By revising § 503.6(e) to read as follows:

* * * * *

(e) *Evidence in support of the cost calculation.* Petitioners for an exemption which requires the use of the cost calculation shall certify that the cost of using alternate fuel substantially exceeds the cost of using oil as a primary energy source as calculated in this section. A brief summary of the petitioner's supporting calculations and estimates shall be submitted with the certification. The summary should address the following:

(1) Cash outlays, investment tax credits, depreciation methodologies, and anticipated salvage for capital investments including a description of all major construction and equipment;

(2) Annual cash outlays for operations and maintenance expenses including the formulas used to compute them;

(3) Annual cash outlays for delivered fuel expenses including the formulas used to compute them; and

(4) If a different useful life than is suggested by ERA (paragraph (d) of this section) is being used, the useful life chosen.

PART 504—EXISTING FACILITIES

(1)(b) By revising § 504.12(e) to read as follows:

§ 504.12 Cost calculations for existing powerplants.

* * * * *

(e) *Evidence in support of the cost calculation.* Petitioners for an exemption which requires the use of the cost calculation shall certify that the cost of using alternate fuel substantially exceeds the cost of using oil as a primary energy source as calculated in this section. A brief summary of the petitioner's supporting calculations and estimates shall be submitted with the certification. The summary should address the following:

(1) Cash outlays, investment tax credits, depreciation methodologies, and anticipated salvage for capital investments including a description of all major construction and equipment;

(2) Annual cash outlays for operations and maintenance expenses including the formulas used to compute them;

(3) Annual cash outlays for delivered fuel expenses including the formulas used to compute them; and

(4) If a different useful life than is suggested by ERA (paragraph (d) of this section) is being used, the useful life chosen.

(2) By revising Appendix II to Part 504 to read as follows:

Appendix II—Fuel Price Computation

(a) *Introduction.* This appendix provides the equations and parameters needed to specify the price of delivered fuels used in computing the cost of using imported petroleum and the cost of using an alternate fuel in Parts 503 and 504 of these regulations. The delivered price of imported petroleum or natural gas used to calculate delivered fuel expenses must reflect (1) the price of imported petroleum, (2) the effects of future real increases in imported petroleum prices, and (3) a substantially exceeds premium. The delivered price of an alternate fuel used to calculate delivered fuel expenses must reflect the petitioner's delivered price of the alternate fuel and the effects of real increases in the price of that alternate fuel. Paragraphs (b) and (c) below provide alternative

procedures to account for projected real increases in the prices of fuels. The petitioner may compute his fuel prices by either of these procedures as long as the same procedure is applied consistently throughout the cost analysis. Table II-1 of this appendix contains the price indices used in option 1 (paragraph (b)) and the inflation index used in computing depreciation in Parts 503 and 504 of these regulations. ERA will change the parameters specified in paragraphs (b)(4) and (c)(4) below and in Tables II-1 and II-2 from time to time after public notice and an opportunity to comment. Revisions shall become effective after final publication. However, the relevant set of parameters for a specific petition for exemption will be the set in effect at the time the petition is submitted or the set in effect at the time a decision is rendered, whichever is more favorable to the petitioner.

(b) *Fuel price computation—option 1.*

(1) The petroleum product price (PFE_i) is computed with Equation II-1.

EQ II-1 $$PFE_i = PF\left(\frac{OPX_i}{OPX_u}\right) + PREM$$

where:

PF = The current market price of the petitioner's fuel oil per barrel at the time the petition is submitted (f.o.b. the facility). Alternatively, if the petitioner does not currently have a supplier of fuel oil, he should use a simple average of the market prices of fuel oil available to him (capable of being burned in the facility and meeting his area's air quality standards) and sold in his area by at least three suppliers.

PFE_i = Price of fuel oil per barrel in year i.

OPX_i = Oil price index value for year i (see Table II-1).

OPX_u = Oil price index value for year u, the year in which the petition is submitted.

PREM = Substantially exceeds premium added to the price of oil (see paragraph (b)(4) below).

(2) If it is planned to use natural gas in the facility, Equation II-1 must be used to calculate the price of fuel (PFE_i), along with the price of the No. 6 residual fuel oil (PF) which meets the air quality standards in the petitioner's area.

(3) The delivered price of alternate fuel (PFA_i) must reflect the real escalation rate of alternate fuel and must be computed with Equation II-2.

EQ II-2. $$PFA_i = APF\left(\frac{APX_i}{APX_u}\right)$$

The terms of Equation II-2 are defined as follows:

PFA_i = Price of alternate fuel in year i.

APF = The current market price of the alternate fuel (f.o.b. the facility).

APX_i = Alternate fuel price index value of year i (see Table II-1 and paragraph (b)(4)(iii) below).

APX_u = Alternate fuel price index for the year u, the year in which the petition is submitted (see Table II-1 and paragraph (b)(4)(iii) below).

(4) The petitioner shall use the following parameters for Equations II-1 and II-2 of this appendix:

(i) The substantially exceeds premium, PREM, is $1.00 per barrel of oil equivalent.

(ii) The oil price index values, OPX_i and OPX_u, are specified in Table II-1.

(iii) The alternate fuel price index values, APX_i and APX_u, depend on the type of alternate fuel to be used.

(A) If the alternate fuel is solid coal, the petitioner must use the alternate fuel price index for coal in Table II-1.

(B) For all other alternate fuels, the petitioner may use either the alternate fuel price index for coal in Table II-1 or his own substantiated escalation rates and the equation for APX_i in the Footnote to Table II-1.

(c) *Fuel price computation—option 2.*

(1) The petroleum product price (PFE_i) is computed with the Equation II-3.

EQ II-3 $$PFE_i = PF + PREM + FUTR$$

where the terms are the same as those in Equation II-1 with the addition of FUTR, the premium added to the price of oil to account for projected escalation in oil prices as compared to escalation in alternate fuel prices (see paragraph (c)(4)(ii) below).

(2) If it is planned to use natural gas in the facility, Equation II-3 must be used to calculate the price of fuel (PFE_i), along with the price of the No. 6 residual fuel oil (PF) which meets the air quality standards in the petitioner's area.

(3) The price of alternate fuel (PFA) must be the current market price of the alternate fuel (f.o.b. the facility).

(4) The petitioner shall use the following parameters for Equation II-3 of this appendix:

(i) The substantially exceeds premium, PREM, is $1.00 per barrel of oil equivalent.

(ii) The premium added to the price of oil to account for projected escalation in oil prices compared to escalation in alternate fuel prices, FUTR, is $4.00 per barrel of oil equivalent.

Table II-1—*Price and Inflation Indices for Use in the Cost Calculations* [1]

Year	Crude oil price index (OPX)	Alternate fuel price index for coal (APX)	Inflation index (IX)
1980	1.000	1.000	1.000
1981	1.016	1.039	1.095
1982	1.032	1.080	1.179
1983	1.049	1.122	1.257
1984	1.066	1.165	1.329
1985	1.083	1.211	1.396
1986	1.111	1.229	1.464
1987	1.140	1.247	1.519
1988	1.169	1.266	1.565
1989	1.200	1.285	1.612
1990	1.231	1.304	1.660
1991	1.257	1.318	1.710
1992	1.283	1.328	1.761
1993	1.310	1.340	1.814
1994	1.338	1.352	1.868
1995	1.366	1.364	1.925
1996	1.382	1.372	1.982
1997	1.399	1.381	2.042
1998	1.415	1.389	2.103
1999	1.432	1.397	2.166
2000	1.450	1.406	2.231
2001	1.450	1.414	2.298
2002	1.450	1.422	2.367
2003	1.450	1.431	2.438
2004	1.450	1.440	2.511
2005	1.450	1.448	2.586
2006	1.450	1.457	2.664
2007	1.450	1.466	2.744
2008	1.450	1.474	2.826
2009	1.450	1.483	2.911
2010	1.450	1.492	2.998
2011	1.450	1.512	3.088
2012	1.450	1.531	3.181
2013	1.450	1.551	3.276
2014	1.450	1.571	3.375
2015	1.450	1.592	3.476
2016	1.450	1.612	3.580
2017	1.450	1.633	3.688
2018	1.450	1.655	3.798
2019	1.450	1.676	3.912
2020	1.450	1.698	4.029
2021	1.450	1.720	4.150
2022	1.450	1.742	4.275
2023	1.450	1.765	4.403
2024	1.450	1.788	4.535
2025	1.450	1.811	4.671
2026	1.450	1.835	4.811
2027	1.450	1.858	4.956
2028	1.450	1.883	5.104
2029	1.450	1.907	5.258
2030	1.450	1.932	5.415

[1] The index values OPX, APX, and IX in Table II-1 were calculated using the rates (see Table II-2) for the real increase in oil price (Ro), coal price (Ra), and inflation (INF), respectively, and the following equations:

$$OPX_i = \prod_{j=1980}^{i} (1 + Ro_j)$$

$$APX_i = \prod_{j=1980}^{i} (1 + Ra_j)$$

$$IX_i = \prod_{j=1980}^{i} (1 + INF_j)$$

where:

i = Calendar year of index, and

M = Product of terms with index j ranging from 1980 to i.

If the petitioner chooses to supply his own escalation rates for an alternate fuel, as provided in option 1 (paragraph (b)(4)(iii)(B) of Appendix II), he must use the equation for APX_i to calculate the appropriate index values.

Table II-2—*Rates of Fuel Price Increase and Inflation Used in Table II-1*

Year	Ro	Ra	INF
1980	0.000	0.000	0.000
1981	0.016	0.039	0.095
1982	0.016	0.039	0.077
1983	0.016	0.039	0.066
1984	0.016	0.039	0.057
1985	0.026	0.039	0.052
1986	0.026	0.015	0.047
1987	0.026	0.015	0.038
1988–1990	0.026	0.015	0.030
1991–1995	0.021	0.009	0.030
1996–2000	0.012	0.006	0.030
2001–2010	0.008	0.006	0.030
2011–2030	0.000	0.013	0.030

(3) By revising § 503.8 (b) and (c) to read as follows:

§ 503.8 No alternate power supply—general requirement for certain exemptions for new powerplants.

* * * * *

(b) *Criteria.* To meet the demonstration required under paragraph (a) of this section, a petitioner must certify that:

(1) A diligent effort has been made to purchase firm power for the first year of operation to cover all or part of the projected shortfall at a cost that is less than ten (10) percent above the annualized cost of generating power from the proposed plant (including the

capital, operation and maintenance expenses, and fuel at imported petroleum prices); or

(2)(i) Despite these efforts, the reserve margin in the petitioner's electric region, normal dispatch area, or service area, in the absence of the proposed plant, would fall below twenty (20) percent during the first year of proposed operation; or

(ii) Despite these efforts, the reserve margin will be greater than twenty (20) percent but reliability of service would be impaired. In such case, the certification must be related to factors not included in the calculation of reserve margin, such as transmission constraints.

(c) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certification required under paragraph (b) of this section; and

(2) Exhibits containing the basis for the certification submitted under this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support its certification to this general requirement).

* * * * *

(4) By revising § 503.9 to read as follows:

§ 503.9 Use of mixtures—general requirement for certain permanent exemptions.

(a) *Criteria.* To qualify for a permanent exemption, except in the case of an exemption for peakload powerplant or fuel mixtures, Section 213(a)(1) of the Act requires a demonstration that the use of a mixture of natural gas and petroleum and an alternate fuel, for which an exemption under 10 CFR § 503.38 (Fuel mixtures) would be available, would not be economically or technically feasible.

(b) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications to the criteria set forth in paragraph (a) of this section; and

(2) Exhibits containing the basis for the certifications submitted under this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support its certifications to the general requirements).

Note.—In meeting this general requirement, ERA will require a petitioner to examine only mixtures of oil and gas and coal, or such other alternate fuels as ERA and the petitioner agree are reasonable to petitioner's circumstances.

(5) By revising § 503.11 to read as follows:

§ 503.11 Alternative sites—general requirement for permanent exemptions for new powerplants.

(a) *Criteria.* In the case of a powerplant, to qualify for a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, inadequate capital or state or local requirements, Section 212 (a), (b) and (h) of the Act require a demonstration that one of these exemptions would be available at any reasonable alternative site for the facility.

(b) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications to the criteria set forth in paragraph (a) of this section; and

(2) Exhibits containing the basis for the certifications submitted under this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support its certifications to this general requirement).

(6) By revising § 503.12 to read as follows:

§ 503.12 Terms and conditions; compliance plans.

(a) *Terms and conditions generally.* A petitioner must comply with any terms and conditions imposed upon the grant of an exemption petition. ERA will limit any such terms and conditions to the unit(s) which is the subject of the petition.

(b) *Compliance plans for temporary exemptions.*

(1) Any compliance plan required to accompany a petition for a temporary exemption shall include the following:

(i) A detailed schedule of progressive events and the dates upon which the events are to take place, indicating how compliance with the applicable prohibitions of the Act will occur;

(ii) Evidence of binding contracts for fuel, or for facilities, for the production of fuel, which are required for compliance with the applicable prohibitions of the Act;

(iii) A schedule indicating how any necessary permits and approvals required to burn an alternate fuel will be obtained; and

(iv) Any other documentary evidence which indicates an ability to comply with the applicable prohibitions of the Act.

(2) Any exemption for which a compliance plan is required shall not be effective until the compliance plan is approved by DOE.

(3) *Revisions of compliance plans.* If the petition is granted, an updated, duly executed plan must be submitted to ERA within one (1) month of an alteration of any milestone in the compliance plan, together with the reasons for the alteration and its impact upon the scheduling of all other milestones in the plan.

(c) *Enforcement.* An exemption is subject to termination upon the violation of any provision of the Act, or non-compliance with any provision of an exemption, including any pertinent terms and conditions.

§§ 503.13 and 503.14 [Removed] and 503.15 [Redesignated as § 503.13]

(7) By removing §§ 503.13 and 503.14 and redesignating § 503.15 as § 503.13.

(8) By redesignating § 503.16 as § 503.14, and revising it to read as follows:

§ 503.14 Fuels search.

Prior to submitting a petition for a permanent exemption for lack of alternate fuel supply, site limitations, inadequate capital, state or local requirements, intermediate load powerplant, or scheduled equipment outages for over 28 days, a petitioner must perform a fuels search by examining the use of coal or, if use of coal would be unreasonable, such other alternate fuels as ERA and the petitioner may agree are reasonable to the petitioner's circumstances, as a primary energy source at the site under consideration, and, for powerplants, at reasonable alternative sites. A petitioner for these exemptions must demonstrate for any fuel examined that he would qualify for an exemption. ERA will not expect a petitioner to evaluate any fuels which have not been demonstrated to be acceptable for use in comparable commercial applications.

For the reasons set out in the preamble, Subpart C of Part 503 of Chapter II, Title 10 of the Code of Federal Regulations, and Subpart D of Part 505 of the interim rules, 44 FR 29014 (May 17, 1979), are proposed to be amended as shown.

§ 503.20 [Amended]

(1) By removing paragraph (d) of § 503.20.

(2) By amending § 503.21 by striking "demonstrate" in paragraph (a) and inserting in its place "certify;" adding paragraph (a)(4); revising paragraphs (b)

and (c); and redesignating paragraph (e) as paragraph (d), as follows:

§ 503.21 Lack of alternate fuel supply.

(a) *Eligibility.* * * * To qualify a petitioner must certify that:

* * * * *

(4) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) All data required by § 503.6 (Cost calculation) of these regulations necessary for computing the cost calculation formula; and

(4) The anticipated duration of the facts which constitute the basis for the exemption.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 600 full load hours on an annual basis, the petitioner may substitute, in lieu of the requirements in paragraph (b) of this section, a duly executed certification that the unit will be operated less than 600 full load hours annually during the period of the exemption.

(d) *Duration.* * * *

[3] By amending § 502.33 by revising paragraphs (a) and (b) to read as follows:

§ 503.22 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a temporary exemption to a site limitation. To qualify for such an exemption, a petitioner must certify that:

(1) One or more specific physical limitations relevant to the location or operation of the proposed facility exist which, despite diligent good faith efforts, cannot be overcome before the end of the proposed exemption period;

(2) The petitioner will be able to comply with the applicable prohibitions of the Act at the end of the proposed exemption period; and

(3) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations.

Note.—Examples of the types of site limitations to which a petitioner may certify in order to qualify for this exemption include:

(i) Alternate fuels would be inaccessible as a result of a specific physical limitation;

(ii) Transportation facilities for alternate fuels would be unavailable;

(iii) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(iv) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(v) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(vi) Other site limitations exist which would not permit the location or operation of the proposed unit using an alternate fuel.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption); and

(3) The anticipated duration of the site limitation which constitutes the basis for the exemption.

* * * * *

[4] By amending § 503.23 by adding a new paragraph (d), as follows:

§ 503.23 Inability to comply with applicable environmental requirements.

* * * * *

(d) *Certification alternative.*

(1) To qualify for this exemption, in lieu of meeting the evidentiary requirements of paragraph (b), a petitioner may certify that, for the period of the exemption:

(i) The site for the facility is located in a Class I area as defined in Part C of the Clean Air Act relating to the prevention of significant deterioration of air quality; the use of an alternate fuel will cause or contribute to concentrations of pollutants which exceed the maximum allowable increases in a Class I area even with the use of cost-effective pollution control equipment; the site for the facility is located in a non-attainment area as defined in Part D of the Clean Air Act for any pollutant which would be emitted by the facility; or, even with the use of cost-effective pollution control equipment, the use of an alternate fuel will cause or contribute to concentrations in an air quality control region, of a pollutant for which any national ambient air quality standard is or would be exceeded; and

(ii) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations.

(2) A petition by certification under this paragraph must include:

(i) Duly executed certifications required under paragraph (a) of this section;

(ii) Exhibits containing the basis for the certifications required under paragraph (1) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this expempton); and

(iii) The anticipated duration of the circmstances which constitute the basis for the exemption.

[5] By revising paragraph (d) of § 503.24 as follows:

§ 503.24 Future use of synthetic fuels.

* * * * *

(d) This temporary exemption may be granted for a period of up to ten (10) years.

[6] By amending § 503.25 by removing existing paragraph (a); redesignating existing paragraph (b) as paragraph (a); adding a new subparagraph (a)(3) to the newly designated paragraph (a); substituting for existing paragraph (c) a new paragraph (b); and redesignating existing paragraph (d) as parargraph (c), as follows:

§ 503.25 Public interest.

(a) *Eligibility.* * * *

(3) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Substantial evidence to corroborate the eligibility requirements identified above; and

(2) The anticipated duration of the circumstances which constitute the basis for the exemption.

(c) *Duration.* * * *

For the reasons set out in the preamble, Subpart D of Part 503 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown.

[1] By amending § 503.31 by striking "demonstrate" in paragraph (a) and inserting in its place "certify;" adding paragraphs (a) (3), (4), and (5); and revising paragraph (b) to read as follows:

§ 503.31 Lack of alternate fuel supply for the first 10 years of useful life.

(a) *Eligibility.* * * * To qualify a petitioner must certify that:

* * * * *

(3) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(5) For powerplants, alternative sites are not available, as required under § 503.11 of these regulations.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.

[2] By amending § 503.22 by striking "demonstrate" in paragraph (a) and inserting in its place "certify," adding paragraphs (a) (3), (4), and (5); and revising paragraphs (b) and (c), and removing paragraph (d), as follows:

§ 503.32 Lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

(a) *Eligibility.* * * * To qualify a petitioner must certify that:

* * * * *

(3) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(5) For powerplants, alternative sites are not available, as required under § 503.11 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly excuted certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations;

(4) Fuels search, as required under § 503.14 of these regulations; and

(5) All data required by § 503.6 (Cost calculation) of these regulations necessary for computing the cost calculation formula.

(c) *Certification alternative for installations.* If the MFBI for which this exemption is being requested will be operated less than 600 full load hours on an annual basis, the petitioner may submit, in lieu of the requirements of paragraph (b) of this section, the following duly executed certifications:

(1) The unit will be operated less than 600 full load hours annually;

(2) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(3) Environmental certifications, as required under § 503.13(b) of these regulations.

[3] By amending § 503.33 by revising paragraphs (a) and (b), to read as follows:

§ 503.33 Site limitations.

(a) *Eligibility.* Section 212(a)(1)(B) of the Act provides for a permanent exemption due to site limitations. To qualify for such an exemption, a petitioner must certify that:

(1) One or more specific physical limitations relevant to the location or operation of the proposed facility exist which, despite good faith efforts, cannot reasonably be expected to be overcome within five years after commencement of operations;

(2) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations;

(3) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(4) For powerplants, alternative sites are not available, as required under § 503.11 of these regulations.

Note.—Examples of the types of site limitations to which a petitioner may certify in order to qualify for this exemption include:

(i) Alternate fuels would be inaccessible as a result of a specific physical limitation;

(ii) Transportation facilities for alternate fuels would be unavailable;

(iii) Adequate land or facilities for handling, using or storing an alternate fuel would be unavailable;

(iv) Adequate land or facilities for controlling and disposing of wastes would be unavailable, including pollution control equipment or devices necessary to assure compliance with applicable environmental requirements;

(v) Adequate and reliable supply of water would be unavailable, including water for use in compliance with applicable environmental requirements; or

(vi) Other site limitations exist which would not permit the location or operation of the proposed unit using an alternate fuel.

(b) *Evidence required in support of the petition.* A petitioner must include in the petition the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.

[4] By amending § 503.34 by adding a new paragraph (d), as follows:

§ 503.34 Inability to comply with applicable environmental requirements.

* * * * *

(d) *Certification alternative.*

(1) To qualify for this exemption, in lieu of meeting the evidentiary requirements of paragraph (c) of this section, a petitioner may certify that:

(i) The site for the facility is located in a Class I area as defined in Part C of the Clean Air Act relating to the prevention of significant deterioration of air quality; the use of an alternate fuel will cause or contribute to concentrations of pollutants which exceed the maximum allowable increases in a Class I area even with the use of cost-effective pollution control equipment; the site for the facility is located in a non-attainment area as defined in Part D of the Clean Air Act for any pollutant which would be emitted by the facility; or, even with the use of cost-effective pollution control equipment, the use of an alternate fuel will cause or contribute to concentrations in an air quality control region, of a pollutant for which any national ambient air quality standard is or would be exceeded;

(ii) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations;

(iii) For powerplants, alternative sites are not available, as required under § 503.11 of these regulations; and

(iv) Use of mixtures is not feasible, as required under § 503.11 of these regulations.

(2) A petition by certification under this paragraph must include:

(i) Duly executed certifications required under subparagraph (1) of this section;

(ii) Exhibits containing the basis for the certifications required under paragraph (1) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(iii) Environmental impact analysis, as required under § 503.13 of these regulations; and

(iv) Fuels search, as required under § 503.14 of these regulations.

[5] By revising § 503.35 as follows:

§ 503.35 Inability to obtain adequate capital.

(a) *Eligibility.* Section 212(a)(1)(D) of the Act provides for a permanent exemption due to inability to obtain adequate capital. To qualify, a petitioner must certify that:

(1) Despite good faith efforts the petitioner will be unable to comply with the applicable prohibitions imposed by the Act because the additional capital required for an alternate fuel-capable unit beyond that required for the proposed unit cannot be raised;

(2) In the case of powerplants, this additional capital cannot be raised due to specific restrictions (e.g., covenants on existing bonds) which constrain management's ability to raise debt or equity capital;

(3) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations;

(4) Use of mixtures is not feasible, as required under § 503.9 of these regulations; and

(5) For powerplants, alternative sites are not available, as required under § 503.11 of these regulations.

(b) *Evidence required in support of a petition.* A petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations;

(4) Fuels search, as required under § 503.14 of these regulations.

[6] By amending § 503.36 by striking "demonstrate" in paragraph (a) and inserting in its place "certify"; adding new subparagraphs (a)(5), (a)(6), and (a)(7); and revising paragraph (b) as follows:

§ 503.36 State or local requirements.

(a) *Eligibility.* * * * To qualify a petitioner must certify that:

* * * * *

(5) For powerplants, no alternative power supply exists, as required under § 503.8 of these regulations;

(6) For powerplants, alternative sites are not available, as required under § 503.11 of these regulations; and

(7) Use of mixtures is not feasible, as required under § 503.9 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.

* * * * *

[7] By amending § 503.37 of the interim rule by revising paragraphs (a), (b)(1), and (d) to read as follows:

§ 503.37 Cogeneration.

(a) *Eligibility.* Section 212(c) of the Act provides for a permanent exemption for cogeneration. To qualify, the petitioner must demonstrate that the economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used, by:

(1) Certifying that:

(i) The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility where the calculation of savings is in accordance with paragraph (c) of this section; and

(ii) Use of mixtures is not feasible, as required under § 503.9 of these regulations; or

(2) Demonstrating that:

(i) It would be in the public interest to grant an exemption to the cogeneration facility because of special circumstances such as technical innovation or maintaining industry in urban areas; and

(ii) Use of mixtures is not feasible, as required under § 503.9 of these regulations.

(b) *Specifications of the cogeneration facility.*

(1) A person proposing to construct a cogeneration facility may apply for an exemption under this section if:

(i) In the case of powerplants, the amount of net electricity that is either sold or exchanged is fifty (50) percent or more of the annual electric power generation of the facility; and

(ii) In the case of installations, the amount of net electricity that is either sold or exchanged is less than fifty (50) percent of the annual electric power generation of the facility.

Net electricity excludes sales or exchanges among owners of the cogeneration facility.

* * * * *

(d) *Evidence required in support of a petition.* The petition must include the following:

(1) To make the demonstration required by subparagraph (a)(1) of this section:

(i) Duly executed certifications required under that subparagraph;

(ii) Exhibits containing the basis for the certifications required under that subparagraph (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption); and

(iii) Environmental impact analysis, as required under § 503.13 of these regulations; or

(2) To make the demonstration required by subparagraph (a)(2) of this section:

(i) An explanation of the public interest factors the petitioner believes should be considered by ERA; and

(ii) Environmental impact analysis, as required under § 503.13 of these regulations.

* * * * *

[8] By amending § 503.38 by striking "demonstrate" in paragraph (a) and inserting in its place "certify"; adding a new subparagraph (a)(3); revising paragraph (c); removing paragraphs (d)(3) and (e); redesignating existing paragraph (f) as (e); revising paragraph (e)(2); and removing paragraph (g) as follows:

§ 503.38 Permanent exemption for certain fuel mixtures containing natural gas or petroleum.

(a) *Eligibility.* * * * *To qualify, a petitioner must certify that:*

* * * * *

(3) For powerplants, no alternate power supply exists, as required under § 503.8 of these regulations.

* * * * *

(c) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factural and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) A description of the fuel mixture, including component fuels and the percentage of each such fuel to be used; and

(4) Environmental impact analysis, as required under § 503.13 of these regulations.

(d) *Certification alternative for use of mixture containing less than 25 percent petroleum or natural gas by an installation.*

* * * * *

(1) A duly executed certification stating that the amount of petroleum or natural gas proposed to be used as a primary energy source in the mixture will not exceed twenty-five (25) percent of the total annul Btu heat input of the installation; and

(2) The environmental certifications, as required under § 503.13(b) of these regulations.

(e) *Solar mixtures.* * * *

(2) Petitioner meets the eligibility and evidentiary requirements of paragraphs (a) and (c) of this section.

* * * * *

§ 503.39 [Amended]

[9] By removing paragraphs (d) and (e) from § 503.39.

[10] By amending § 503.40 by striking "demonstrate" and inserting in its place "certify;" adding new subpargraphs (a)(3) and (a)(4); revising paragraph (b)(2), and (c) (paragraph (c) was erroneously designated in the final rule as a second paragraph (b)); and removing paragraphs (d) and (e), as follows:

§ 503.40 Permanent exemption for powerplants necessary to maintain reliability of service.

(a) *Eligibility.* * * * To qualify, a petitioner must certify that:

* * * * *

(3) No alternate power supply exists, as required under § 503.8 of these regulations; and

(4) Use of mixtures is not feasible, as required under §503.9 of these regulations.

(b) *Impairment of Reliability of Service.* * * *

(2) Reliability of service will be considered impaired if the LOLP for a 12-month period, including the initial operational date of the proposed unit, is greater than one day in ten (10) years. For the purpose of calculation of LOLP, if a capacity deficit occurs one or more times in one day, such an event constitutes a one-day loss of load.

* * * * *

(c) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations.

[11] By amending § 503.41 by removing "and to meet peakload demand for the life of the powerplant" at the end of paragraph (a)(1), and (a)(2)(i); revising paragraph (b); and removing paragraphs (c), (d), and (e).

§ 503.41 Peakload powerplants.

* * * * *

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitoner to be sufficient to support the granting of this exemption); and

(3) Environmental certifications, as required under § 503.13(b) of these regulations.

[12] By amending § 503.42 by removing "demonstrate" in paragraph (a) and inserting in its place "certify;" adding paragraphs (a)(7) and (a)(8); revising paragraph (b); removing paragraphs (c) and (d); and redesignating existing paragraph (e) as paragraph (c), as follows:

§ 503.42 Intermediate load powerplants.

(a) *Eligibility.* * * * To qualify, a petitioner must certify that:

* * * * *

(7) Use of mixtures is not feasible, as required under § 503.9 of these regulations;

(8) No alternate power supply exists, as required under § 503.8 of these regulations; and

(9) Alternative sites are not available, as required under § 503.11 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.

* * * * *

(13) By amending § 503.43 by removing "demonstrate" in paragraph (a) and inserting in its place "certify;" adding paragraph (a)(4); revising paragraphs (b) and (c); removing paragraphs (d) and (e); and redesignating paragraph (f) as paragraph (d), as follows:

§ 503.43 Scheduled equipment outages for installations.

(a) *Eligibility.* * * * To qualify a petitioner must certify that:

* * * * *

(4) Use of mixtures is not feasible, as required under § 503.9 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) Environmental impact analysis, as required under § 503.13 of these regulations; and

(4) Fuels search, as required under § 503.14 of these regulations.

(c) *Alternative for use 28 days per year or less.*

If use of the proposed unit is not to exceed an average of 28 days per year over a three-year period, the petitioner may omit the fuels search requirement under § 503.14 from its evidentiary

submissions under paragraph (b) of this section and shall submit, in lieu of the environmental impact analysis under § 503.13, only the environmental certifications required under § 503.13(b) of these regulations.

(d) *Emergency use.* A petition for an emergency exemption may be submitted in addition to a petition for a scheduled equipment outage exemption. Eligibility and evidentiary requirements of each exemption must be satisfied.

PART 504—EXISTING FACILITIES

For the reasons set out in the Preamble, Subpart B of Part 504 of Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as shown:

§ 504.6 [Amended]

[1] By removing from § 504.6(d) the words "* * * or the installation of pollution control or fuel handling equipment," and ending that paragraph with the words "* * * on the basis of cost."

PART 505—NEW MAJOR FUEL BURNING INSTALLATIONS

§ 505.27 [Removed]

(1) It is proposed to amend Part 505 by removing § 505.27.

[FR Doc. 81-17552 Filed 6-11-81; 12:15 pm]
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Friday
June 12, 1981

Part V

Department of Energy

Bonneville Power Administration

Draft Prototype Power Sales Contracts Interpreting Policy Provisions of Pacific Northwest Electric Power Planning and Conservation Act: Publication of Summary of BPA's Proposed Contract Provisions and Request for Public Comment

DEPARTMENT OF ENERGY

Bonneville Power Administration

Draft Prototype Power Sales Contracts Interpreting Policy Provisions of Pacific Northwest Electric Power Planning and Conservation Act: Publication of Summary of BPA's Proposed Contract Provisions and Request for Public Comment

AGENCY: Bonneville Power Administration (BPA), Department of Energy.

ACTION: Notice of draft prototype power sales contracts interpreting policy provisions of Pacific Northwest Electric Power Planning and Conservation Act: Publication of summary of BPA's proposed contract provisions and request for public comment.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act or Pub. L. 96-501) requires that BPA simultaneously offer, within 9 months of the date of enactment (September 8, 1981), long-term power sales contracts to (1) existing public body and cooperative customers and investor-owned utility customers; (2) Federal agency customers; (3) electric utility customers participating in the residential exchange; and (4) the direct-service industrial customers. In the public involvement spirit of the Regional Act, this Notice summarizes the draft prototype contracts which have been negotiated to date, and requests public comment on these contracts.

BPA announced the process for public participation and acceptance of public comments in the contracts negotiation process (46 FR 18331, March 25, 1981). Later in response to requests that more opportunities for public comment be available, BPA scheduled and announced public meetings in Boise, Idaho; and Seattle, Washington (46 FR 23287, April 24, 1981); and later announced a special evening session with the negotiating teams in Portland. BPA received views and advice from the public on contract-related matters at these meetings and also received written comments.

Draft prototype power sales contracts and a report on the environmental considerations associated with the contracts are now available for a 30-day public review and comment period. Public meetings to receive oral comments on the draft prototype contracts and environmental report will be held in Portland, Oregon; Seattle and Spokane, Washington; and Boise, Idaho. Written comments are also encouraged. The comments and materials that result from this public review process will be made available to the contract negotiation parties. In August, BPA plans to publish the final prototype contracts and an evaluation of comments received both at the May public meetings and during this June comment period on the draft prototype contracts. The final prototype contracts will be individualized to take into account the individual systems of BPA's utility customers while maintaining their consistency in all major respects with the prototype. BPA plans to offer the power sales and exchange contracts by September 8, 1981.

DATES: Meetings to receive public comment on the draft prototype sales contracts and the environmental report will be held on June 23, 24, and 25, 1981. Registration to provide oral comment at each meeting will be 7 p.m., and the meetings will begin at 7:30 p.m. The meeting on June 23 will be held in the Fidalgo Room of the Seattle Center, 1st North and Republican Street, Seattle, Washington. The meetings on June 24 will be held in the South B Ballroom, Sheraton Hotel, Spokane Falls Boulevard, Spokane, Washington; and in the Bonneville Power Administration Auditorium, 1002 NE. Holladay Street, Portland, Oregon. The June 25 meeting will be held in the East Conference Room of the Hall of Mirrors, Capital Mall, Boise, Idaho. Written comments will be accepted until 30 days after the effective date of this notice.

EFFECTIVE DATE: June 12, 1981.

ADDRESSES: Copies of the draft prototype contracts and the Environmental Report on environmental considerations are available for distribution or review by contacting BPA's Public Involvement office or the BPA Area and District offices shown below. Written comments should be sent to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Donna L. Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, Extension 4261. BPA maintains toll-free lines for the use of persons within the region. Oregon callers outside of the Portland area may use the toll-free line, 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California: 800-547-6048. Messages received after normal business hours (after 4:30 p.m. and before 7:30 a.m.) may be recorded on the toll-free lines. Information is also available from:

Mr. John H. Jones, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97208, 503-234-3361, Extension 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, Suite 117, 23 South Wenatchee, Wenatchee, Washington 98801, 509-662-4377, Extension 379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 209-442-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, Extension 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: The Regional Act requires that BPA simultaneously offer, within 9 months of the date of enactment, long-term power sales contracts to: (1) existing public body and cooperative customers and investor-owned utility customers; (2) Federal agency customers; (3) electric utility customers participating in the residential exchange; and (4) the direct-service industrial customers. Development and negotiation of prototype contract provisions which will form the basis for the individual contracts offered to each customer began in January 1981 with an organizational meeting. Negotiations continued during regularly scheduled meetings between BPA and representatives of customer groups. BPA announced the process for public participation and acceptance of public comments in the contracts negotiation process (46 FR 18331, March 25, 1981). All sessions were open to the public and any written handouts used during the meetings were made available upon request.

BPA then received requests that public meetings also be held and written comments solicited in the region to identify the concerns of groups and individuals interested in the contract negotiation process. In response to these requests, BPA held two public meetings in Seattle, Washington, and Boise, Idaho, on May 13 and 14, respectively.

and a special evening session with the negotiating teams on May 18 in Portland to receive comments from the public and from various groups on items identified by public interest groups and by other individuals particularly interested in BPA's 1981 contract negotiation process. BPA officials attended the meetings to receive advice and to accept comments. Comments received at the meetings have been treated similarly to comments received in the contract negotiation process. They were distributed to parties, participants, and groups and individuals at or interested in the contract negotiation process. Such comments have been available for the use of the negotiating parties in drafting prototype contracts. Written comments from those unable to attend the meetings or from those who wish to augment their remarks have also been received.

Draft prototype contracts are now available for a 30-day public review and comment period. Elements of the draft prototype contracts and General Contract Provisions are discussed below. BPA has also prepared a report on the environmental considerations that are associated with the issues and alternatives that have been identified during the contract negotiations. The report is also available for review and comment.

BPA has scheduled public meetings to receive oral comments on the draft prototype contracts and the environmental report. The meetings will be held on June 23, 1981, in Seattle, Washington; on June 24, 1981, in Spokane, Washington, and Portland, Oregon; and on June 25, 1981, in Boise, Idaho. Written comments will also be accepted and should be sent to the Public Involvement Coordinator.

The comments and materials that result from the public review process will be made available to the contract negotiation parties. In August, BPA plans to publish an evaluation of comments received at both the May and June hearings and in written material.

The prototype contracts will be individualized to take into account the individual systems of BPA's utility customers, and BPA will offer contracts by September 8, 1981.

I. Discussion of Contract Elements—Prototype Power Sales Agreement

BPA intends to offer contracts consistent with the prototype firm power sales contract which is developed through the negotiating and evaluation of public comment in response to this and earlier notices. The contract will be offered to public bodies cooperatives, Federal agencies and investor-owned utilities for all of the wholesale firm power sales required under the Regional Act. This prototype power sales contract will be applicable for sales both to utilities with generating resources and those without. Positions differing from those of BPA are included where indicated. The Public Power Council (PPC) represented the interests of preference customers and the Inter Company Pool (ICP) represented member investor-owned utilities.

A. *Termination of Contract.* Existing firm power sales contracts of utilities which execute this contract will be terminated and replaced by this contract. Existing contracts for the sale of firm capacity only, such as those held by investor-owned utilities, may be terminated at the election of those parties.

B. *Term of Contract.* All contracts will be effective on the date of execution and will terminate approximately 20 years later on June 30, 2001. BPA has proposed the 20-year term for these power sales contracts, as it has historically, based on the longest term permitted under the Bonneville Project Act of 1937. This affords BPA the greatest opportunity to engage in prudent long-term planning. Some public comment has suggested that the 20-year term could delay implementation of alternative power sales policies.

C. *Definition.* All terms which require specific definitions for use in the contract are listed in alphabetical order.

D. *Exhibits.* The contract incorporates by reference BPA's Wholesale Rate Schedules and General Rate Schedule Provisions, BPA's General Contract Provisions, outlined below, a statement of customer service objectives setting criteria relating to facilities, and several other exhibits showing information necessary to many of the following contract sections.

E. *Service to Load.* BPA reserves the right to fulfill its obligation to serve a utility's load by acquiring conservation measures or other resources and the utility agrees to cooperate and facilitate such effort.

F. *Interpretation of Fish and Wildlife Responsibilities.* Under this section, the parties acknowledge that BPA is obligated under Public Law 96–501 to implement measures to protect, mitigate, and enhance fish and wildlife while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. The parties also agree that this contract shall not prevent the Purchaser's performance of its legal obligations established in any project license or order of the Federal Energy Regulatory Commission (FERC), or prevent or impair the implementation by BPA of measures under section 4 and section 6 of Public Law 96–501 to protect, mitigate, and enhance fish and wildlife. It should be noted regarding fish and wildlife provisions in the contract that, in the allocation section, BPA has stated that the firm capability of the Federal Columbia River hydroelectric projects is their ability to generate firm power within the constraints placed by fish and wildlife operations as well as other authorized uses of the river, and that the firm capability of utility hydroelectric resources may be reduced to meet such utility's fish and wildlife obligations.

G. *Allocation Provisions in the Event of Planning Insufficiency.* The allocation provisions provide that BPA may limit its obligations to supply firm power to utilities' loads if BPA is unable to acquire on a planning basis sufficient resources to supply such loads. This limitation is accomplished by BPA issuing a notice of restriction to a utility and other members of its class of customers. For purposes of issuing notices of restriction under this contract, BPA's customers are divided into three classes: (1) public body and cooperative; (2) Federal agency; and (3) investor-owned utility. The notice will provide that in a future specified year BPA's obligations to these utilities will be limited by allocating BPA's available resources in that year to such utilities pursuant to a set of formulas contained within an exhibit to this contract (see summary below). Such formulas follow requirements established by Pub. L. 96–501 regarding allocation of the capability of the Federal base system and the capability of resources acquired by BPA from utilities pursuant to Pub. L. 96–501.

Public Law 96–501 places several limitations on notices of restriction which are contained in the contract. It specifies that a notice of restriction cannot be issued until BPA has had a reasonable period of experience under Pub. L. 96–501; that the notice of restriction to the public body and cooperative class and Federal agency class may not be effective prior to the operating year that BPA estimates its combined obligations to both classes equal or exceed the firm capability of the Federal base system resources; and that a notice of restriction may not be effective for reasonable minimum period of time following the issuance of the notice of restriction. BPA has specified a reasonable period of experience of 3½ years before a notice of restriction can be given, a notice period to restrict firm energy loads of public body and cooperative or Federal agency

customers of 10 years, and a notice period of 5 years to restrict firm loads of investor-owned utilities and firm peakloads of public body and cooperative and Federal agency customers. The investor-owned utilities believe the reasonable period of experience before the notice can be given should be 4½ years and the public body and cooperative customers believe their energy restriction notice should be 11 years.

The contract sets up a procedure for determining monthy allocations of capacity and energy during an operating year when a notice of restriction is in effect. Such procedure provides that BPA shall establish an estimated allocation by January 1 prior to such operating year. The estimated allocation shall be effective during that operating year until a final allocation is established after August 15, when the extent of refill of the region's reservoirs has been determined and the capabilities of the region's resources can be established for that operating year.

The contract provides a description of the Federal base system resources for the purpose of defining the firm capability of such resources and determining the amount of capability which will be allocated from such resources in the event of insufficiency. BPA has proposed that the resources for which such firm capability will be calculated are the Federal Columbia River Power System Hydroelectric Projects and the capability acquired under long-term contracts in force on the effective date of Pub. L. 96–501. The long-term contracts include Hanford, Washington Nuclear Project (WNP)–1, WNP–2, 70 percent of WNP–3, 30 percent of Trojan, capacity-energy exchange contracts with both Pacific Northwest and Pacific Southwest utilities, and the Goodnoe Hills wind turbines. BPA's intends to acquire resources to replace reductions in the capability of Federal hydroelectric projects in the event of the loss of the entire capability of a project or reductions in the sum of the capabilities specified for the contractual resources. BPA's proposal provides that the firm capability of the Federal base system is a ratcheted amount which will increase to the full capability of the hydroelectric projects and the contractual resources acquired by BPA prior to the Regional Act and would be reduced thereafter only for reduction in the capability of the hydroelectric projects due to other authorized uses of the river. The PPC proposal would limit the capability of the Federal base system resources to the actual output of contractual resources acquired under long-term contracts, limit the replacement of resources in the Federal base system to resources acquired under long-term purchase contracts under section 6 of Pub. L. 96–501 and require approval of at least two-thirds of the public body and cooperative customers before BPA could acquire any replacement resources for the Federal base system.

The contract provides that the firm capability of the Federal base system resources be determined by such resources' contribution to BPA's Firm Load Carrying Capability, while reflecting constraints on use of the rivers due to other authorized uses.

The firm capability of the resources acquired by BPA under Pub. L. 96–501 will be determined in the same manner as Federal base system resources using the estimated peak and energy capability of such resources specified in the resource purchase agreements. BPA may rerate the peak and energy capability of any resource based on the actual performance of such resource by giving 10 years' notice to the utility.

Public Law 96–501 requires that entitlements to power under the allocation formulas which are excess to any particular customer's power requirements in any year first be used to increase the allocations of other utilities in that class. BPA will first use that power to meet its obligations to supply to the public body and cooperative class and to the Federal Agency class an amount of power equal to the amount actually supplied by BPA in the year preceding insufficiency.

BPA has proposed that the remaining amounts of power for the public body and cooperative class and the Federal agency class and the amounts for the investor-owned utility class then be allocated in an ordinal manner to customers in each class. Such ordinal ranking is based upon the amount of resources provided by such customer to BPA under Pub. L. 96–501, divided either by a utility's load growth after the effective date of the Regional Act, or by such load growth and deficits in resources prior to the effective date for investor–owned utilities. BPA would then allocate amounts of intraclass excess entitlements to meet the full requirements of the customers in each class beginning with the highest ranked until the entire amounts of intraclass excess entitlements are allocated. The PPC and ICP have proposed that an ordinal ranking be established but that allocations of intraclass excess entitlements to the investor-owned utility class be made on a pro rate basis based on scuh ordinal ranking instead of an all-or-nothing basis.

BPA has also proposed that a customer's allocation of intraclass excess entitlements be reduced by the amount of firm power necessary to served the amount of the Purchaser's firm load which would have been reduced by cost-effective BPA conservation programs or equivalent customer programs which the utility declined to implement. The PPC has opposed any reduction for failure to implement conservation programs.

BPA has proposed that additional amounts of intraclass excess entitlements which are excess to the needs of a class or amounts of firm power available from resources not subject to the allocation requirements of Pub. L. 96–501 be allocated by methods determined by BPA. Investor-owned utilities have proposed that such allocations be made pro rata to all customers who have deficiency remaining after receiving their allocation under these allocation formulas. The investor-owned utilities have also proposed that customers which have signed the residential purchase/sale contract pursuant to section 5(c) of Pub. L. 96–501 be allowed to request a requirements contract during a period of insufficiency in order to obtain a share of its class' intraclass excess entitlement.

Several matters remain unresolved in the determination of variables for the allocation formula. One issue is which resources of public body and cooperative and Federal agency customers will be considered in making a pro rata allocation of the Federal base system. Another regards the Montana reservation pursuant to Pub. L. 85–428. Preference customers in the State of Montana hold that Pub. L. 85–428 gives them preference as to the power reserved for the State of Montana, as opposed to giving them a right to purchase amounts of power equal to the power to which the reservation applies. A final matter regards the resources to be used in determining the ordinal ranking. BPA has proposed that such resources be the resources acquired by BPA from or on behalf of a utility while the public bodies and cooperatives and the investor-owned utilities believe that such resources should included resources dedicated to serve the purchaser's firm load under section 5(b) of the Regional Act as well as resources sold by a utility to BPA.

H. *Determination of New Large Single Loads.* The Administrator determines whether load has been committed to or contracted for by September 1, 1979. In accordance with the Regional Act, the BPA Administrator shall make that

determination on a case-by-case basis, with the burden of proof on the Purchaser to show why a facility should not be classified as a New Large Single Load.

BPA and the Purchaser will jointly determine, using a list of nonexclusive criteria, what constitutes a facility. Discussion continues on whether interpretive rulemaking or arbitration is the appropriate method for dispute resolution, should BPA and the Purchaser be unable to reach agreement on what constitutes a facility. BPA favors interpretive rulemaking over arbitration for this determination.

All parties concur that an increase in load will be a New Large Single Load if the energy consumption of the Consumer's load associated with a facility during the immediately past 12-month period exceeds by 10 average megawatts or more the Consumer's energy consumption for such facility for the consecutive 12-month period 1 year earlier, or the amount of the contracted for, or committed to, load as of September 1, 1979, whichever is greater.

The ICP wants the contract to state that any shift of an existing load over 10 average megawatts between utilities will be classified as a New Large Single Load. Although BPA agrees with the conclusion, it wants to avoid terms in a power sales contract that makes commitment with one class of customer restricting how BPA might serve another class of customer.

The New Large Single Load section places a reporting requirement on a Purchaser to make a reasonable effort to identify New Large Single Loads as soon as there is an addition of equipment, transformation capacity, or change in operation which likely will result in an increase of 10 average megawatts in a consumer's facility in a 12-month period.

BPA and the Purchaser may agree from the outset that an increase in load associated with a facility is a New Large Single Load. When it cannot be initially determined that an increase in load will eventually become a New Large Single Load, BPA has given the Purchaser the option of backbilling or rebating. Under backbilling the Purchaser is initially billed at the lower Priority Firm Power Rate. If the load eventually become a New Large Single Load, BPA then will backbill the Purchaser for the difference between the initially charge Priortiy Firm Power rate and the higher New Resource Firm Power Rate with interest at BPA's prevailing rate from the date the increase in load becomes a New Large Single Load. If the load never becomes a New Large Single Load it then continues to be billed at the lower rate. Under rebating, BPA charges the Purchaser the higher New Resource Firm Power Rate from the date of commercial operation of the increase in load. If the load eventually becomes a New Large Single Load, BPA continues to charge the higher rate. If the load never becomes a New Large Single Load, the difference between the higher and lower rates is rebated to the Purchaser with interest at BPA's prevailing rate.

The PPC proposed a different approach. It prefers setting up an energy monitoring plan. Under this plan, the Purchaser reports the Consumer's actual energy consumption to BPA each month. When it appears the Consumer's increase in load will becomed a New Large Single Load within the 12-month monitoring period, BPA then becomes responsible for making the determination of when to start charging the load as a New Large Single Load. Under the PPC plan the load either becomes a New Large Single Load and is billed as such from the time BPA makes the determination, or it does not become a New Large Single Load and PBA rebates to the Purchaser the difference between the New Resource Firm Power Rate and the Priority Firm Power Rate from the date the Purchaser was initially billed at the new Resource Firm Power Rate for the New Large Single Load.

Once a load associate with a facility becomes a New Large Single Load, that increase and all future increases to the load are classified as a New Large Single Load and is charged the higher New Resource Firm Power Rate. Any reductions to Consumer's load are on a last-on, first-off basis, which means once a load becomes a New Large Single Load any reductions in load first affects those portions of the load charged at the New Resource Firm Power Rate. In order to be reclassifed as no longer a New Large Single Load by BPA, a Consumer must physically and permanently remove all equipment which had originally impose the New Large Single Load on the Consumer's facility.

BPA and the utilities are in agreement that, should a Purchaser fail to report a New Large Single Load of which it had or reasonably should have had knowledge, that Purchaser will be: (1) backbilled at the higher New Resource Firm Power Rate; (2) charged interest at BPA's prevailing rate; and (3) assessed a late payment charge. In addition, BPA has reserved its legal rights to pursue other remedies.

I. *Limitation on Increase of Loads.* Consistent with similar terms in previous power sales contracts, BPA has proposed that it not be obligated to serve loads that will result in an increase greater than a certain amount until BPA determines it can serve that Load while fulfilling its other firm power obligations, or until the end of a specified notice period. Customers oppose the inclusion of this limitation.

J. *Planning and Operating Information.* This section provides that parties will cooperate with each other in the exchange of planning and operating information. The parties agree to provide such information, subject to reimbursement of reasonable expenses necessarily incurred, or provide access to sources from which the information can be obtained. Such information will be used to develop generation, transmission, and distribution plans and further the concept of one utility planning in the region.

K. *Compensation in the Event of Regional Curtailment.* If BPA has a load-resource deficiency and if a curtailment program is put into effect by voluntary appeals or mandatory action by governmental authority in the Purchaser's service area, BPA will pay direct compensation for the resulting saved power to the Purchasers whose revenue bases are thereby reduced. Compensation will be at a rate equal to the difference between the Purchaser's average retail rate and BPA's wholesale rate.

L. *Purchaser's Firm Resources.* Every year the Purchaser will submit a Firm Resource Exhibit showing its resources which are described by section 5(b)(1)(A) and (B) of the Regional Act for each of the following 10 Operating Years. Each year's submittal will show new information for the tenth year, but will only show those changes in the resources declared for the first 9 Operating Years as are specifically permitted by this section. The Firm Resource Exhibit is considered fixed, except for these specified circumstances, because the amount that the Purchaser is entitled to purchase from BPA is dependent in part on the contents of the Firm Resource Exhibit. Additions of resources will reduce the computed requirements purchase; removals will increase it. All the following provisions on changes of Firm Resources reflect BPA's practical need for advance notice of its obligations, leaving enough time to engage in realistic resource planning and acquisition. The changes that will be permitted are as follows:

1. Any Firm Resource may be added in any Operating Year if it is in accordance with BPA's published, resource-specific annual program implementing the plan of the Regional Council and the Regional Act.

2. Any Firm Resource may be added for any Operating Year if BPA can dispose of any resulting surplus to BPA's resources without sustaining an adverse economic effect.

3. Any Firm Resource may be added if it has a planned capability for the generating facility of 50 average megawatts or less, provided that the Purchaser must give BPA 2 years' notice of the new resource. A shorter notice period has been proposed by preference customers and investor-owned utilities and is being considered.

4. Any Firm Resource in regard to which the Purchaser had previously granted to BPA a written option to purchase may be added within 2 years after the Purchaser withdraws its offer pursuant to this option or BPA declines for any reason to exercise that option. The addition to the exhibit shall be only up to the amounts covered by the option agreement.

5. Any Firm Resource may be added if and to the extent BPA determines that it has a firm load-resource deficiency for the first Operating Year that the Purchaser proposes to add another Firm Resource. In the event of many requests for addition, BPA will give priority to those from which written notice of addition was first received.

6. Any Firm Resource may be removed for the tenth Operating Year of the exhibit if the Purchaser discontinues use of the resource due to obsolescence, retirement, loss of resource, or loss of contract rights, but may be removed earlier than the tenth year if BPA has been able to acquire resources to meet the resulting addition load. Preference customers and investor-owned utilities hold the position that Pub. L. 96–501 gives BPA no right to require 10 years' notice. Both groups believe that they should be able to immediately revise their Firm Resources, and therefore increase their BPA purchase, in the event of an unanticipated loss or factors beyond the Purchaser's control. BPA's position is that Pub. L. 96–501 does not change the principle that the resource owner has control over its operation and maintenance and should bear that risk.

7. Any Firm resource may be removed to the extent that BPA determines it has a firm load-resource surplus in the first Operating Year that the Purchaser proposes to remove such resource. In the event of multiple requests to remove Firm Resources, BPA will give priority in the order that written notice of removal was first received. For BPA determinations of load-resource surplus or deficit for this section and (5) above, investor-owned utilities have proposed that BPA make these determinations for 10 future Operating Years beginning after execution of this agreement. They also proposed a methodology specifying the types of purchases and resrves that should go into the determination, and specifying that three-quarters of the DSI load be included.

8. Any Firm Resource may be removed for any Operating Year or Years to the extent that an equivalent resource is added for the same periods if the resource to be added was not planned as of the date of enactment of the Regional Act to meet firm load in the region, or has been offered for sale to BPA and declined. This is to assure that the sum of all resources which were intended under the Regional Act to be used to serve firm loads will not be decreased.

9. Firm Resources may be added or removed to the extent that corresponding additions or removals are made in the Firm Resource Exhibits of other BPA Purchasers so that BPA's total firm obligation to supply power is not changed.

10. Any Firm Resource may be removed for any Operating Year if BPA acquires that resource from the Purchaser, or may be added for any Operating Year if the resource was recovered from BPA by the Purchaser for use in its load.

11. Any Firm Resource may be removed or added for any Operating Year if and to the extent that the Purchaser gains or loses that Firm Resource as the result of a withdrawal pursuant to contracts in existence on the date of enactment of the Regional Act which have notice periods of less than 10 years. For these cases, the addition to or removal from the Firm Resource Exhibit must be made with the same notice as provided for in those contracts.

12. Any Firm Resource may be added or removed for any Operating Year with BPA's prior written consent.

M. *Designation of Computed Requirements Customers.* This section sets out the criteria by which a Purchaser will be designated to purchase either on a computed requirements basis or a metered requirements basis. Each type of Purchaser will be subject to those sections of the contract that specifically refer to them, and to those provisions in the rate schedules which distinguish between computed requirements customers and others. Under the basic principles of computed requirements, the purchasing utilities operate with BPA as though all parties constituted a single utility. Computed requirements customers must operate their own resources and plan the amounts they purchase from BPA prudently and according to the terms of this Contract or incur charges in excess of the wholesale firm power rates in the event of overrun.

The Purchaser will be designated as a computed requirements customer if it either (1) operates automatic generation control equipment and schedules power with BPA, or (2) does not operate automatic generation control equipment but has the ability to sell power from its resources or to operate its resources in a manner as to cause losses of power or revenue to BPA. If the Purchaser does not have automatic generation control equipment, it will be designated as a computed requirements customer only if it has Firm Resources which are in excess of a specified minimum capability. This minimum capability level has not been determined. Some preference customers with a small proportion of resources in relation to their loads and without automatic generation control equipment hold that they should not be subject to the rate provisions providing for a minimum billing demand equal to 60 percent of the highest such demand for the past 11 months ("ratchet"). They believe that this ratchet was intended to protect BPA against large periodic reductions in sales caused by utilities who own and control a large proportion of resources compared to their loads. BPA's position is that the rates will be applied uniformly. BPA will review the Firm Resource Exhibit submitted by all Purchasers for every year to determine if a change in designation is appropriate, and will give written notice thereof to the Purchaser.

N. *Metered Requirements Sale of Power and Amounts Sold.* This section provides for BPA to make available and a utility to purchase from BPA its metered requirements for firm power for service to consumers in its service area. The section establishes a planning obligation on BPA to meet the firm load of customers being billed on their meters.

The section requires the Purchaser to use the entire output of its firm resources, if it has any, to serve its firm loads and specifies services that BPA agrees to provide to assist such utility in using such output to serve its firm loads. While the contract does not require the utility to purchase services from BPA, BPA reserves the right to establish a standard charge to recover the costs of planned outage reserves, forced outage reserves, spinning reserves, and generation frequency control for utility resources where BPA is providing the services. BPA has also agreed to provide services at standard charges (1) to

insure that the entire output of a utility's resources is shaped under its firm load for all operating hours during the year, or (2) the services necessary to establish a firm planning capability for a utility's resources, including a credit to such utility to compensate it for the output of such resources in excess of its firm load.

The section also provides that utilities, at BPA's request, operate their resources or arrange to receive power available to them under contracts in such a manner as to assist BPA in meeting its total loads. BPA has agreed to compensate the purchaser for any additional costs which are incurred due to the requested operation by BPA.

O. *Metered Requirements Payment for Power Sold.* This section provides that a utility pay BPA for firm power delivered under the previous section pursuant to the appropriate wholesale power rate schedule and billing provisions in the General Contract Provision Exhibit. Such billing provisions have been added to the General Contract Provisions during negotiation of this contract and will later be removed from the General Rate schedule provisions. The section also provides that BPA pay the reimburable costs for resources operated by the customer at BPA's request and for compensation payments to a utility in the event of regional curtailment. The PPC has proposed that the contract specify a low system density discount and a standard for applying the discount which would be fixed for the term of the contract.

P. *Determination of Computed Requirements Purchaser's Assured Capability.* This section controls the method for calculating the Purchaser's Assured Capability of its Firm Resources for purposes of determining the amount of power it will be entitled to purchase from BPA on a computed requirements basis. Wherever possible, this section is consistent with procedures and precedents established in connection with the Pacific Northwest Coordination Agreement, to which BPA and many Pacific Northwest utilities are parties. For example, Assured Capability of all hydroelectric resources will be based on the assumption of occurrence of critical streamflow conditions. For all Purchasers that are parties to the Pacific Northwest Coordination Agreement, the same "critical period" will be used, that is, an historical period during which recorded steamflow would result in the least energy distributed among months in proportion to firm load.

This section continues a longstanding BPA policy that computed requirements Purchasers will operate their own resources so that their purchase from BPA is approximately uniform from 1 year to the next during the critical period, allowing increase for annual load growth. This specifically prevents a computed requirements purchaser from planning which results in large Assured Capabilities for the first part of the critical period and smaller ones in later years, thereby potentially increasing its later demands on BPA and risking regional power shortages for those later years.

Though the annual purchase from BPA must be approximately uniform from 1 year to the next, increasing each year by the amount of the Purchaser's annual load growth, the amounts of the purchase from month to month may be either approximately uniform or may increase or decrease to follow the Purchaser's load shape. If BPA agrees, the Purchaser may increase it purchase for those periods for whch it has planned maintenance of its own resources. This could be planned to coincide with increased flows from Federal resources for migratory fish to prevent waste of the resulting energy.

The methods used to calculate the Purchaser's Assured Capability will be the usual methods used by BPA and its Purchasers. With respect to data relating to factors that affect hydroelectric capabilities, BPA and the Purchaser will use such data and operating constraints as are reasonable and generally accepted. Operating constraints will include operations to achieve environmental and fish and wildlife objectives and requirements. BPA may verify the capabilities of the Purchaser's Firm Resources. The Purchaser must provide firm transmission capacity that is sufficient to transmit the peak capability of each of its Firm Resources to its firm loads. Investor-owned utilities oppose the inclusion of this provision in a power sales contract.

Q. *Purchaser's Computed Requirements and Amount of Power Sold.* The computed requirements sales arrangement provides that BPA will sell to the Purchaser an amount of firm power equal to the difference between the Purchaser's firm loads and the Assured Capability of its Firm Resources. A computed requirements Purchaser will buy this amount either based on a comparison of actual data made after every month, or based on a planned schedule for each month of the coming year, agreed upon by the parties before that year. For Purchasers on the planned basis, the amount of firm power sold will be the difference between the Purchaser's estimated firm loads, as approved by BPA and its Assured Capabilities for each month that year.

Investor-owned utilities proposed a variety of planned computed requirements in which the Purchaser would plan its BPA purchases for the next 10 years. These purchases would be less than 100 percent of the difference between the Purchaser's firm loads and the Assured Capability of its Firm Resources and would be supplemented by firm power purchases that become available on short notice. The concept of a sales arrangement for less than the full net requirements of the Purchaser is novel. BPA has neither accepted nor rejected this proposal. As long as the Purchaser made up the difference with firm purchases rather than secondary energy, the region would have firm resources sufficient for its loads, based on critical streamflow.

For all purchases other than planned or contracted, the amount of power sold will be determined after the end of every month by comparing actual generation of the Purchaser's Firm Resources, actual loads, amounts of power delivered by BPA and by making certain adjustment specifically allowed for in this section and in the Payment section. If the comparison of actual data for the previous month indicated that the Purchaser had taken more power from BPA than the computed requirements formula allowed, the Purchaser may make an adjustment to the amount of its assured energy capability for that month which will be reconciled by corresponding changes for later months. A record of such adjustments will be kept in an account called "Flexibility Account." This concept corresponds to a provision of the Pacific Northwest Coordination Agreement and is subject to similar rules and regulations.

BPA may make advance arrangements to restrict a computed requirements customer for as long as 6 heavy load hours of any day to an amount of power not less than its computed peak requirement. According to the basic computed requirements formula, many customers would ordinarily have a right to take a larger amount of power than this bare minimum. This has had the effect in the past of forcing BPA to maintain a greater amount of peak capability available for the region than it would have had to maintain if it were only obligated to make the bare minimum available on those heavy load hours. BPA's proposal includes a reduction in the customer's power bill if this restriction is invoked.

If a Purchaser cannot produce its Assured Capability, there is a provision

to allow the Purchaser to supplement that Assured Capability by means of a load curtailment program. In the absence of this provision, the computed requirements formula would result in a decrease in the amount of firm power the Purchaser was entitled to receive and the Purchaser would be in danger of being unable to serve its loads.

R. *Power Scheduling.* This section and the Power Scheduling Procedures Exhibit sets out procedures governing the manner in which the Purchaser requests its hour-by-hour deliveries of power from BPA. The Power Scheduling Procedures Exhibit calls for reports of preschedules to be made each day for the following day, limits the revisions that a Purchaser can later make in those schedules, and establishes the amounts of power that can be scheduled during different time periods in relationship to the Purchaser's computed requirements. The exhibit contains deadlines and formulas for maximum schedules and may be revised from time to time by agreement of BPA and the majority of the Purchasers then operating under the exhibit. Other generation utilities state that they cannot meet the BPA deadlines because they can't collect the necessary data until later in the day.

S. *Computed Requirements Payment for Power Sales and Services.* This section describes the rates to be paid for power delivered under this contract as well as some related services. For firm power, it refers to the appropriate firm power rate schedules. Unlike the section on "Metered Requirements Payment for Power Sold," computed requirements payments are not figured strictly from amounts taken but rather by comparing amounts taken with the amounts that should have been taken, according to the computed requirements formula. In the event that the Purchaser has taken more firm power than it was entitled to according to the computed requirements formula, this section provides for overrun payments, subject to other rates and other charges. This section refers to the Relief From Overrun Exhibit, which describes methods for reducing overrun payments under certain limited conditions, procedures for converting certain amounts of overruns to sales of nonfirm energy when BPA had nonfirm energy for sale, and establishes margins providing for smaller charges in the event of smaller overruns.

T. *Ratification of Interim Agreement.* For Purchasers with whom BPA has a wholesale firm power sales contract, this section acknowledges the applicability of the wholesale rate schedules, when they became effective, to deliveries of power made before the effective date of this contract.

II. Discussion of Contract Elements—Residential Purchase and Sale Contracts

A. *Duration of Contract and Related Matters.*

1. *Term.* All contracts will be effective on the later of the date of execution or October 1, 1981, and will terminate on June 30, 2001, consistent with legislative history and BPA's interpretation of the language of Public Law 96–501 referring to "long-term" contracts.

2. *Effective Date.* 2400 hours on September 30, 1981.

3. *Status of Existing Contracts.* These contracts are new and unique in nature and there are no existing contracts of similar type in existence at the present time. Currently, residential customers of investor-owned utilities in the region generally pay higher rates for electric power than do residential customers of BPA's preference utilities because of the investor-owned utilities' lack of access to BPA's firm power. This new contract provides that access.

4. *Termination.* The utility may terminate the agreement upon reasonable terms and conditions as specified in Section 7(b)(2) of the Regional Act if the "rate test" is triggered and the supplemental charge is applied to the utility which drives the cost of the sale to the utility under this contract above the utility's average system cost. The utilities have taken the position that the Regional Act does not preclude BPA from allowing additional termination provisions.

B. *Class of Power.* BPA will sell to the utility at BPA's firm power rate pursuant to Section 7(b) of the Regional Act. The utility will sell back power to BPA at the utility's average system cost.

C. *Amount of Power.* The Regional Act provides that the amount of power to be sold by both parties to each other under the contract is to be equal to the utility's residential load which includes usual farm use and farm irrigation pumping load up to the first 400 horsepower (H.P.) during any month. Existing State rate tariffs will be used to determine the size of this load for each utility participating in the contract.

The 400 H.P. limitation for irrigation and pump loads in the Regional Act has been agreed upon by the parties to mean an upper limit on energy to be exchanged for any farm equal to 400 times the number of hours in the billing period times the conversion factor of 0.746 kilowatts per horsepower.

D. *Demand.* A demand is needed to effect the sale by BPA to the utility at BPA's firm power rate because BPA's firm power rate schedule includes a demand charge. Therefore, the parties have agreed that since residential demand is not measured, that the monthly load factors from the Federal Energy Regulatory Commission (FERC) Form 1, page 431, be used as agreed upon monthly load factors for the sale. Each such monthly load factor will be a rolling average of that month's load factor for the previous 5 years.

E. *In-Lieu Purchase by BPA.* The Regional Act gives BPA the right to purchase power in lieu of purchasing the utility's power at the utility's average system cost if that average system cost exceeds the cost or power to be found elsewhere. BPA will give the same notice for such a purchase to the utility as the utility must give BPA in its power sales contract to reduce its contract demand. BPA will state the amount, duration, source, and cost of any intended acquisition, and such an acquisition shall not be less than 1 year in duration. When the utility receives such notice, the utility will have the option to either reduce the amount of power purchased by BPA under the contract or reduce its rate to be paid by BPA to the new in-lieu rate. BPA will not acquire power for any in-lieu purchases from sources whose costs have previously been assigned to BPA's new resource rate pool pursuant to Section 7(f) of the Regional Act.

F. *Accounting, Review, and Budgeting.* The utilities will keep up-to-date records and accounts showing all transactions and other arrangements under the contract for at least 5 years; these will be maintained in accordance with the system of accounts prescribed by FERC. BPA may, at its expense, conduct reviews or inspection of the records and accounts and related documents pertinent to the agreement.

G. *Cost Benefits.* The utilities will pass through directly to the residential load the cost benefits which accrue to the utility under this contract. Cost benefits have been defined in the proposed contract as a reduction in the utility's wholesale power cost during the term of the contract as a result of the contract.

H. *Definition of Farm and Usual Farm Use.* The Regional Act provides that usual farm use electrical loads and farm irrigation and pump loads up to the 400 H.P. limit may be included under the exchange. The parties have agreed that a farm is a parcel of land which is used primarily for agriculture, and is owned or leased by one or more persons including partnerships and corporations. Agriculture is defined to include the raising and incidental primary processing of crops, pasturage, or

livestock. Usual farm use has been defined as all electrical loads ordinarily associated with agriculture.

III. Discussion of Contract Elements—DSI Contracts

A. *Duration of Contract and Related Matters*

1. *Term.* All contracts will be effective on the date agreed upon among the parties and will terminate approximately 20 years later on June 30, 2001, consistent with legislative history and BPA's interpretation of the language of Public Law 96–501 referring to "long-term" contracts. BPA has proposed the 20-year term for these power sales contracts, as it has historically, based on the longest term permitted under the Bonneville Project Act of 1937. This affords BPA the greatest opportunity to engage in prudent long-term planning. Some public comment has suggested that the 20-year term could delay implementation of alternative power sales policies.

2. *Effective Date.* Proposed by BPA to be July 1, 1981, but may not be later than October 1, 1981.

3. *Status of Existing Contracts.* BPA proposes termination of existing contracts. The DSIs prefer that existing contracts not be terminated, but that deliveries be made pursuant to the terms of the new contracts.

4. *Existing Liabilities.* Any liabilities under current power sales and operating agreements will be preserved until satisfied.

5. *Follow-on Contracts.* BPA will not be obligated to offer a follow-on contract. However, BPA and DSIs would establish a mechanism for assessing mutual desire and ability to execute such contracts. Further, DSIs prefer that BPA acknowledge an obligation to achieve and maintain load/resource balance throughout the contract term. BPA acknowledges its statutory obligations to acquire sufficient resources to meet its contractual obligations.

B. *Class of Power.* The contract would be for a unified class of Industrial Firm Power (IF) and for amounts of Auxiliary Power, subject; to restriction by BPA and curtailment by the customer on the terms and conditions set forth in the contract.

C. *Amount of Power.*

1. *Generally.*

a. The Regional Act entitles each DSI to the amount of power to which it is presently entitled under the IF contracts, including technological improvement allowances for purposes other than plant expansion.

b. The new DSI contracts will contain demand levels known as "Contract Demand" and "Operating Demand;" a contract demand for Auxiliary Power will also be included. The Contract Demand and Operating Demand may be identical for some companies. Contract Demand would represent the maximum amount of power each DSI is entitled to receive from BPA under the new contract. Operating Demand would represent each company's operating level actually achieved or in the process of being attained. Adequate notice would be required for increases or decreases in operating levels that result in operating levels less than or equal to Operating Demand. Notice for certain increases in Operating Demand would be identical to notice provisions of utility contracts (amount of notice is a function of the size of increase). Technological Improvement Allowances (TIA), if granted, would increase both Contract Demand and Operating Demand by the amount of the TIA.

2. *Contract Demand.*

a. Each DSI contract would contain a specified Contract Demand level.

b. Contract Demand for each DSI will be the sum of:

(1) Contract demand in the current IF contract;

(2) Authorized Increases granted in the past and incorporated or scheduled to be incorporated in the current IF contract;

(3) Additional Power actually purchased under current contracts; and

(4) Technological Improvement Allowances that are granted (see Section 4 below).

3. *Operating Demand.*

a. Each DSI contract would contain a specified initial Operating Demand level and scheduled increases thereof, reflecting the company's recent operating experience, announced plans, and current plant capability.

b. Generally, matters such as billings, restriction amounts and allocations of Advance Energy and IRE (see below) would be based on Operating Demand rather than Contract Demand.

c. No notice is required for increases in Operating Demand specified in the Contract. Each DSI may otherwise increase its Operating Demand up to the limit of its Contract Demand upon appropriate notice.

4. *Technological Improvement Allowances (TIS's).*

a. *Availability.* As in existing contracts, TIA are for purposes other than plant expansion.

b. *Amount.* The total TIA pool is limited to one percent per year of the total initial Contract Demand, cumulated and carried forward to the extent not used from July 1, 1978.

c. *Eligibility.* Technological Improvements that (i) meet the contractual criteria; and (ii) are made in the future or by written notice since July 1, 1978, will be eligible. Requests for Technological Improvements not immediately eligible for service as Industrial Firm Power will be served in the interim by Auxiliary Power.

d. *Allocation Among DSIs.* The contract will contain a mechanism for allocating TIA among DSIs in the event that requests in any year for the following 3-year period exceed the amount available for that period, with certain allocation priorities for those DSI's who have not previously been granted their proportionate share of available TI amounts.

e. *Notice.* Same as for increases in utility contracts, except that shorter notice period may apply if the TIA is required by the DSI to comply with a governmental order (*e.g.*, pollution control).

f. *Effect.* TIA that are granted will increase both Contract Demand and Operating Demand, and will decrease the Auxiliary Demand, by the amount of the TIA.

D. *BPA Restriction Rights.*

1. *Generally.*

a. The DSI contracts are required to provide reserves to protect BPA's firm obligations. These reserves are provided through contract rights to interrupt or withdraw power otherwise delivered to the DSIs. The restriction rights may not be exercised for any purpose other than the protection of all BPA firm obligations. Except to the extent of such restriction rights, BPA's contractual obligations to the DSIs are generally identical to its obligations to other customers.

b. For purposes of quantifying specific restriction rights, each DSI Operating Demand is devided into four "quartiles" of equal size "subject to special operating circumstances." Different restriction rights apply to different quartiles. Additional restriction rights apply to Auxiliary Power.

c. The contracts will recognize that some flexibility in adjusting restriction rights over time will be desirable, and that such adjustments may be made by mutual agreement of the parties. In addition, the continued need for periodic Operating Agreements will be acknowledged.

d. Reserves are categorized as planning or operating reserves, depending generally on the purpose of the particular reserve, the duration of the restriction, and the type of shortage that "triggers" BPA's need for and right to exercise the restriction right.

2. *System Stability and Forced Outage.*

a. These reserves will be similar to existing DSI contract provisions. The main difference is that BPA seeks, in place of the present 5-minute limit on dropping 100 percent of the DSI load, a longer period (15–45 minutes). BPA is currently assessing its need for, and the DSI's their ability to withstand, this longer interruption.

b. These reserves are provided by the following specific restriction rights:

(1) *100 Percent Load Drop.* Extension of time limit from 5 minutes to 15–45 minutes is currently being investigated (see above).

(2) *50 Percent Load Drop.* This applies to the DSI loads operating at the time of restriction. A restriction is of up to 2 hours' duration each time employed. The accumulation of all such restrictions cannot exceed in kilowatthours in any calendar year each DSI's Contract Demand multipied by 50.

(3) *25 Percent Load Drop.* This use applies to the second quartile of the Operating Demand. The accumulation of all such restrictions cannot exceed in kilowatthours in any calendar year each DSI's Contract Demand multiplied by 375.

3. *Top Quartile Operating Reserve.*

a. BPA may interrupt a portion of the DSI load, not to exceed 25 percent of the Operating Demand plus the Auxiliary Power, at any time, for any reason, and for any duration. Interruptions may be for capacity or energy or both. Special arrangements may apply when the first quartile is served with DSI firm energy borrowed from a later portion of a critical period.

b. As much notice of interruption as possible under the circumstances will be given.

c. See also "operations In lieu of Restriction", below.

4. *Second Quartile Reserves.*

a. The parties are presently negotiating the extent of the expanded reserve provided by this quartile. The DSIs maintain that this reserve should be only for resource delay and initial operating problems. BPA maintains that this reserve should also be used for failure of existing resources. It is agreed that this quartile will provide a reserve to protect BPA's other firm obligations.

b. Currently in disagreement are the following:

(1) *Inability of a Resource to Maintain Designed Capability Once Attained Initially.* BPA wants the second quartile reserve to be available not only to protect firm loads against the delayed completion of planned resources or the failure of such resources to achieve design capability but also to protect firm obligations against the contingency of the loss of capability of such resources once commercial status is attained. The DSIs disagree, particularly if the "loss" is discretionary or volitional, and feel that all loads in the region (including the DSIs) should bear this risk equally in such event.

(2) *Coverage of Existing BPA Resources.* In addition to covering planned resources, BPA wants the reserve to be available in the event an existing resource loses actual capability; the DSIs take the position that only resources "implemented or acquired" by BPA under the Regional Act are to be covered. BPA agrees that such reserves for resources which attained commercial operation shall not be used because of shutdowns incurred under governmental orders.

(3) *Expansion of Second Quartile Reserves.* BPA wants to be able to restrict deliveries to the second quartile on short notice (30–45 days) during the operating year in which: (A) a long-term forced outage occurs, (B) firm loads cannot otherwise be served, (C) replacement energy cannot be purchased at a reasonable price, (D) first quartile reserves are unavailable and (E) forced outage reserves are insufficient. The DSI's maintain this would establish the second quartile as an operating reserve for energy purposes, which BPA states it needs. The DSIs maintain that this is a new proposal not contemplated by the Regional Act. The DSIs believe the intent of the Regional Act is to treat the second quartile as an energy planning reserve only, with notice of possible restriction therefor being given only prior to the Contract Year in which the restriction may occur. BPA believes that there is flexibility for expanded reserves.

c. The parties are currently considering provisions to attempt to resolve the disagreement expressed in subsections (a) and (b) above. The provisions would modify the proposed restriction right in the following manner:

(1) Provide assurances that the right will be exercised only in circumstances in which BPA would otherwise be unable to carry its firm obligations.

(2) Place a reasonable durational limit (or other form of limit) on the exercise of the restriction right, so that a forced outage that cannot be cured (or mitigated by purchases) will become within a reasonable time a regional problem rather than a problem for the DSIs alone. BPA proposes 180 days as a reasonable durational limit in the first Contract Year that the outage occurs, but maintains DSIs will continue to provide reserves for a period up to 10 years;

(3) Exclude from coverage by the restriction right certain types of events imposed by governmental action or which are voluntary, volitional, or otherwise discretionary (*e.g.*, a regional decision to shut down otherwise operable generating units); and

(4) Provide for contractual oversight provision with resource owners and operators to assure prudent operation of resources in order to minimize the risk of this restriction right being exercised.

d. The top quartile operating reserve and the DSI forced outage and stability reserves will be available for any contingency not covered by the second quartile reserve, including unanticipated growth of regional firm loads. The second quartile is not exposed to the extent the region simply fails to plan sufficient resources, but rather to the extent that certain planned resources are not available.

e. BPA recognizes its obligation to acquire resources pursuant to the Regional Act, on a reasonable schedule, to make up for any projected deficit.

E. *BPA Obligations and Operations in Lieu of Restriction.*

1. *Generally.* BPA is obligated to treat three quartiles of the DSI Operating Demand as a firm load for purposes of both resource planning and operation (subject to the restriction rights noted above). BPA is obligated to treat the DSI top quartile as if it were a firm load for purposes of resource operation, but not for purposes of resource planning (subject to the restriction rights noted above). BPA may restrict deliveries to DSIs only for the purpose of making firm power sales to other customers. BPA will use techniques such as Advance Energy or shaping of Firm Energy Load Carrying Capability to borrow DSI firm energy from one time period for use in an earlier time period, subject to additional restriction rights by BPA if repayment of the borrowed energy is necessary to enable BPA to meet its firm obligations.

2. *DSI Load Obligations and Operations.* Because the DSIs' second quartile is a firm load for purposes of resource planning as well as operation, BPA will not restrict deliveries to the DSIs' second quartile unless BPA is unable to meet its total firm obligations in actual operation, including through the purchase of available power at reasonable price. BPA maintains that at present the price of power produced at single-cycle combustion turbines is the reasonable limit. The reasonable limit is expected to vary over time based on

market conditions and other circumstances.

3. *Advance Energy.* Among the specific points that will be included in the DSI contracts with respect to Advance Energy are these:

a. Except for deliveries of Auxiliary Power, Advance energy may be available for any portion of the DSI load that is subject to restriction, within the limits of available amounts.

b. Generally, Advance Energy will be pro-rated among the DSI on the basis of Operating Demands.

c. BPA proposes that if a DSI curtails plant load, it individually may refuse to accept Advance Energy, in whole or in part; the DSIs do not agree that Plant load must be curtailed to refuse acceptance of Advance Energy.

d. The obligation to repay Advance Energy will be discharged in proportion to the refill of the reservoirs at which Advance drafts were made, or to which Advance Energy was transferred, based on energy content of available storage at such reservoirs (taking flood control limits into account).

4. *Operating Agreements.* As is the case in the 1980–81 and 1981–82 Contract Years, BPA and the DSIs may from time to time enter into operating agreements for operations in lieu of restriction in the event the power sales contract does not provide for a particular operating condition. Such operations are secured by BPA rights to restrict in a later time period, if necessary, portions of the DSIs load that would not otherwise be subject to restriction under the terms of the DSIs contracts.

F. *Voluntary Curtailment by the Customer.* Each DSI may curtail its plant load up to the amount of the top quartile, plus Auxiliary Power, generally without a Demand Charge.

G. *Voluntary Termination of Contract.* The DSI prefer, as in section 11(c) of the existing DSI General Contract Provisions, that any DSI may terminate its BPA contract after a rate increase, subject to paying the cost of any BPA facilities used to deliver power to that DSI load. BPA has proposed that a DSI may terminate under such circumstances if the DSI reimburses BPA for the unrecoverable cost of pertinent facilities or resources acquired to serve the DSI, and of residential exchange shortfalls.

H. *Miscellaneous.*

1. *Service From other Sources.*

a. If, with BPA's consent, any DSI transfers to a BPA utility customer any portion of the load that BPA is already serving directly, the Contract Demand and Operating Demand of that DSI will be reduced by the same amount.

b. As required by sections 9(i)(1) and (2) of the Regional Act, BPA will continue to act as agent for the DSIs, in acquiring, at the request and expense of the DSIs, industrial replacement energy (IRE) and in disposing of such IRE at the request and expense of each DSI. BPA will prescribe the terms and conditions of IRE transactions for the purpose of assuring each DSI an opportunity to participate in such acquisitions and dispositions. In addition, BPA proposes (outside the power sales contract) that all acquisitions of IRE and other non-Federal energy by the DSIs shall be subject to preemption by BPA if the IRE has not already been delivered or advanced, and if it is needed to enable BPA to meet its firm obligations, including the DSIs second quartile; the DSIs have not agreed to this.

c. The DSIs propose that circumstances, if any, under which a DSI may acquire resources of its own to provide service to all or a portion of the load that BPA may interrupt should not be decided as part of the present contract negotiation. The DSIs maintain that this question should be deferred for resolution in the context of specific resource proposals if any are later advanced. BPA agrees that the matter can be deferred.

2. *Nongeneric Items.*

a. Alumax special provisions.

b. Furnace reline provision.

c. Rate and Restriction provisions for Hanna.

d. At-site provisions for Anaconda and Martin-Marietta.

IV. Discussion—General Contract Provisions

The General Contract Provisions (GCPs) contain general provisions associated with the power sales contracts for utilities and direct-service industries. Specific information covered by these provisions include billing provisions, provisions for adjusting wholesale power rates, engineering requirements for points of delivery and many others.

Relating to all Purchasers

A. *In Reference to Meaning.* This section provides that provisions contained in the contract shall control the GCPs if there is any conflict with the provisions contained in the body of the attached contract. Defined terms used only in the GCP's are defined in this section.

B. *In Reference to Computations of Charges.* This section contains provisions for interpreting measurements recorded by meters. It contains methods of resolving common disputes over the accuracy of metered measurements.

C. *In Reference to Rates.* This section establishes the procedures BPA must follow to change wholesale rates. It limits such changes to once in any 12-month period, provides that BPA shall establish and publish a methodology for assessing the rate test of Section 7(b) 2 of Public Law 96–501 by July 1, 1983, and reserves BPA's authority to apply a conservation surcharge.

D. *In Reference to Delivery of Power.* This section contains provisions regarding terms for delivery of power including:

Character of Service, which specifies the form of electric power and energy which will be delivered;

Point of Delivery and Delivery Voltage, which describes where ownership of power is transferred to a utility;

Metered Quantities, which describes the amount transferred;

Where Additional Facilities Required, which sets BPA's obligation to provide additional facilities to enable it to supply increases in the Purchaser's requirements for power;

Uncontrollable Force, which defines "Uncontrollable Forces" and limits a party's obligation to deliver or receive power due to such conditions and;

Continuity of Service, which provides that BPA or a transferor may temporarily reduce or interrupt deliveries of power when it is determined there is an emergency or installation of equipment or maintenance work is necessary. Except in the case of emergency, a prior notice is required.

Delivery by Transfer, which specifies BPA's obligation to assure deliveries of power when made by transfer over other utilities.

E. *In Reference to Payment for Power.* This section contains provisions for paying bills and charges in the event of late payments.

F. *In Reference to Use of Power.* This section contains terms regarding engineering requirements for delivery of power. A utility must give reasonable notice to BPA of any unusual increase or decrease in its demands for power and energy. A utility will be liable for any damage to the Federal System which results in such increase or decrease made without BPA's consent. Each party must design, construct, operate, and maintain its electric system in conformance with accepted electric utility practice to minimize electric disturbances. Nothing in this section creates a duty or liability to any person not a party to the contract.

G. *Harmonic Control.* Each party must design, construct, operate, and maintain its electric system in accordance with good engineering practices to minimize the levels of harmonic currents and voltage which could interfere with another party's facilities. A utility must insure that the currents on each phase of a point of delivery are balanced within specified tolerances.

H. *In Reference to Facilities.* This section contains general terms regarding each party's facilities. BPA may install a meter or metering equipment at any time. All meters must be tested at least once every 2 years. If meters are to be located on another party's property, the contract provides a permit for reasonable access.

Ownership of any equipment installed by a party on the property of another party remains in the installing party and shall be marked accordingly. Either party may inspect the other's electric installations used in complying with the terms of this contract at any reasonable time. BPA must design and construct Federal System facilities to maintain the voltage at each point of delivery from Federal System within a certain range above or below the operating voltage.

I. *Miscellaneous Provisions.* This section contains provisions implementing BPA's obligations established by law or executive order, provides for standard contractual terms regarding interpretation of contracts, and includes an arbitration section for resolving disputed facts.

Relating Only to Preference Agencies

This section contains provisions which apply only to preference agencies. It includes provisions for separate operation of municipal utilities from city governments, provisions required for Rural-Electrification Administration borrowers, and a savings clause for the preference and priority provisions of the Bonneville Project Act.

Relating Only to Utility Purchases

This section contains provisions which apply only to utilities and not direct-service industries.

A. *In Reference to Computation of Charges.* This section contains provisions for adjusting billing factors to reflect deliveries under prior contracts for billing factors established on the basis of prior deliveries. It also provides for reducing such billing factors in the event of an increase in a utility's resources. Billing factors will also be adjusted to reflect interruptions in delivery.

The section contains provisions for computing billing factors or providing additional charges for multiple points of delivery. Billing factors can also be adjusted to reflect deliveries in reactive power beyond limits specified in the section.

B. *In Reference to Purchaser's Operating Policies.* This section requires utilities to notify BPA of changes in resale rates and provide copies to BPA before they are effective. Utilities are quired to follow Federal Energy Regulatory Commission accounting rules or Rural Electrification Administration accounting rules if applicable. Utilities must provide regular audits.

If BPA restricts any portion of its direct service industries contract, a utility shall not, without BPA's permission serve any such portions so restricted with resources available to the utility from BPA.

C. *In Reference Only to Purchaser With Generating Facilities.* A utility shall not sell electric power and energy to utilities who are not dependent on the Purchaser for the major part of their electric power and energy requirements from any portion of the generating facilities that such utility used in determining the assured capability of the utility's generating facility with certain specified exceptions.

At the request of either the party, the other party will make available on the terms stated herein such thermal-generated or hydrogenerated energy as the supplying party determines, when such request is made, that it has available for delivery to the requesting party. If a breakdown of, or emergency on, the system of either party occurs, the other party will make available upon request all or such part of the energy required for such system as the supplier determines it can supply.

Relating Only to Direct-Service Industry Purchasers

These provisions apply only to direct service industries.

A. *In Reference to Computation of Charges.* This section provides for computing billing factors when an industry is purchasing power from sources other than BPA.

B. *In Reference to Purchase.* All electric power and energy delivered under this contract shall be used by an industry in its own operations and the industry shall not resell any part of it. If the industry resells such electric power and energy, BPA shall immediately cancel this contract.

Dated: June 5, 1981.

Earl Gjelde,

Acting Administrator.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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 June 10, 1981